

CASE NO. 29-RC-172410
REQUEST FOR REVIEW
EXHIBIT C
(HEARING TRANSCRIPT)

In The Matter Of:
NEW YORK METHODIST MSOB of Kings
County and
1199 SEIU, UNITED HEALTHCARE
WORKERS EAST

Vol. 1
April 05, 2016

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Min-U-Script® with Word Index

Page 1

BEFORE THE
NATIONAL LABOR RELATIONS BOARD

In the Matter of:
NEW YORK METHODIST HOSPITAL/MSO
OF KINGS COUNTY, LLC,

Employer, Case No. 29-RC-172398
And
1199 SEIU, UNITED HEALTHCARE
WORKERS EAST,

Petitioner.

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<p style="text-align: right;">Page 5</p> <p>1 PROCEEDINGS 2 (Time Noted: 11:26 a.m.) 3 HEARING OFFICER SCHAEFER: <small>On the record.</small> 4 This hearing will be in order. This is a formal hearing 5 in the matter of New York Methodist Hospital and MSO of Kings 6 County, LLC, in Case Number 29-RC-17329 -- I'm sorry, 172398. 7 There are two petitions that are at issue. We will deal with 8 Petition 172410 in a separate record. 9 This is a case before the National Labor Relations Board. 10 The hearing officer appearing for the National Labor Relations 11 Board is Erin Schaefer. All parties have been informed of the 12 procedures at formal hearing before the Board by service of the 13 description of procedures in certification and decertification 14 cases with the notice of hearing. I have additional copies of 15 this document if any party wants more. 16 So I'm going to ask counsel to state their appearances for 17 the record starting with the Petitioner. And I'd also ask if 18 you have a card and the correct spelling of your name if you 19 haven't already provided that to -- you can just write it down 20 but provide it to, you don't need to spell it on the record 21 just give it to the court reporter. Ms. Wilcox? 22 MS. WILCOX: <small>Gwynne Wilcox, Levy Ratner, PC, 80 Eighth</small> 23 Avenue, New York, New York, 10011. 24 MR. FELSTINER: <small>Aleksandr Felstiner, also with Levy</small> 25 Ratner.</p>	<p style="text-align: right;">Page 7</p> <p>1 through (e). 2 (Board's B-1(a) to 1(e) identified.) 3 HEARING OFFICER SCHAEFER: <small>I would also like to note that</small> 4 not included in the index but included in the exhibit is the 5 letter to New York Methodist/MSO of Kings County, LLC, sent by 6 the Board. So while it's not reflected in the exhibit it is 7 part -- while it's not reflected in the index, it is part of 8 the exhibit. 9 MR. FRANK: <small>Can I see a copy of that because it is not</small> 10 reflected in the exhibit that I have from the Board. 11 HEARING OFFICER SCHAEFER: <small>Yes, that was the letter.</small> 12 handed to you before in terms of the letter. We just didn't 13 have a copy. 14 MR. FRANK: <small>This is for another case?</small> 15 HEARING OFFICER SCHAEFER: <small>You shall do the other case.</small> 16 MR. FRANK: <small>We object to receipt of Exhibit 1 because it</small> 17 does not properly identify the Employer and contains 18 misinformation. I would also note that Exhibit 1 does not 19 include the original petition filed by the Union which was 20 withdrawn and that withdrawal was approved by the Board, so 21 it's an incomplete exhibit. And thirdly I would point out that 22 the communication that was mailed to MSO and New York Methodist 23 was not received by that organization or either of the 24 organizations until the 31st of March. 25 HEARING OFFICER SCHAEFER: <small>When you're looking at the</small></p>
<p style="text-align: right;">Page 6</p> <p>1 MS. SAWNEY: <small>Lystra Sawney, 1199, organizer.</small> 2 HEARING OFFICER SCHAEFER: <small>And for the Employer?</small> 3 MR. FRANK: <small>For MSO of Kings County, LLC, James Frank;</small> 4 Epstein, Becker & Green. Donald Krueger of Epstein, Becker & 5 Green. And Daniel Green of Epstein, Becker & Green. 6 HEARING OFFICER SCHAEFER: <small>Do you, I should have</small> 7 said Employer. They're for MSO. And now for New York 8 Methodist Hospital? 9 MR. FRANK: <small>For New York Methodist Hospital, James Frank,</small> 10 Donald Krueger, and Daniel Green; Epstein, Becker & Green, 11 250 Park Avenue. 12 HEARING OFFICER SCHAEFER: <small>Are there any other questions?</small> 13 that anyone would like to make? Yeah, sure, it's up to you. 14 (Pause.) 15 HEARING OFFICER SCHAEFER: <small>All right, if at any point you</small> 16 can always make the appearance later. Let the record show 17 there's no further responses. 18 Are there any other persons, parties, or labor 19 organizations in the hearing room who claim to have interest in 20 this proceeding? 21 (No response.) 22 HEARING OFFICER SCHAEFER: <small>For the record there's none on</small> 23 response. 24 At this point, I propose to receive the formal papers. 25 They have been marked for identification as Board Exhibit 1(a)</p>	<p style="text-align: right;">Page 8</p> <p>1 documents that the Board served you, the Board letter, correct? 2 MR. FRANK: <small>The letter dated March 31st.</small> 3 HEARING OFFICER SCHAEFER: <small>From the National Labor</small> 4 Relations Board? 5 MR. FRANK: <small>From the National Labor Relations Board. I</small> 6 believe it was received March 31st. 7 HEARING OFFICER SCHAEFER: <small>Okay.</small> 8 MS. WILCOX: <small>According to the record, I mean it says</small> 9 March 23rd. 10 HEARING OFFICER SCHAEFER: <small>That letter also doesn't</small> 11 constitute the service. 12 MR. FRANK: <small>Well, there's no service. That's why I was</small> 13 making this comment. 14 HEARING OFFICER SCHAEFER: <small>It's on the last page.</small> 15 MR. FRANK: <small>No, I see a notice of hearing for March 31st.</small> 16 I don't see any service. And I would also point out that the 17 notice of petition misidentifies the name of the Employer. 18 HEARING OFFICER SCHAEFER: <small>You were going to get into</small> 19 that. I understand your position with regard to whether the 20 Employer's name is correct on the petition. I will give you an 21 opportunity to explain your position on that and then we'll 22 deal with that. I would point out, I understand your 23 objection. I'm going to receive Board Exhibit 1 in evidence. 24 (Board's B-1(a) to 1(e) received.) 25 MS. WILCOX: <small>With respect to the Employer's request for an</small></p>

<p>Page 9</p> <p>1 adjournment of the October -- I'm sorry, the March 31st 2 hearing, is there a document that should be part of the record? 3 Did you include it? 4 HEARING OFFICER SCHAEFER: <small>You already have it here.</small> 5 I'll put it in the record. Again, I understand that the 6 Employer wants the former petition to be in the record. That 7 matter is closed. I don't have a copy of it here with me now. 8 We could put it in the record if that's something you want to 9 do. I'm not putting it in Board's Exhibit 1 because I don't 10 think that's the place for it to be. 11 MR. FRANK: I would like it to be included in the record. 12 If you'd like I'll tell you why. 13 HEARING OFFICER SCHAEFER: <small>No, it's okay. At least it is.</small> 14 put it in the record. 15 MR. FRANK: Thank you. 16 MS. WILCOX: But it should not be part of the formal 17 papers in this proceeding. 18 HEARING OFFICER SCHAEFER: <small>One not putting it in the</small> 19 formal papers. I'm putting it in as -- I'll put it in the 20 record. In terms of the order rescheduling the hearing, again, 21 I don't quite know why that needs to be in the record except 22 there was a postponement request. I will also put it in the 23 record. I have it right here and I can do that. 24 All right, Board Exhibit 1 is received. Here's the order 25 rescheduling the hearing that was dated March 29th moving the</p>	<p>Page 11</p> <p>1 My understanding is that there are prehearing motions to 2 quash subpoenas that the Employer would like to make or has 3 filed with the NLRB. I want to deal with that in a few 4 minutes. 5 Now the parties to this proceeding have executed a 6 document which is marked as Board Exhibit -- is that 2? Board 7 Exhibit 2. That exhibit contains a series of stipulations 8 including among other items that the Petitioner is a labor 9 organization within the meaning of the Act; that New York 10 Methodist is an employer engaged in commerce; and that MSO is 11 an employer engaged in commerce. To be clear, nothing in that 12 stipulation indicates who is the employer, just that those 13 entities separately are engaged in interstate commerce and are 14 employers under the Act. 15 (Board's B-2 identified.) 16 MR. FRANK: I think the stipulation specified that New 17 York Methodist Hospital is an acute care hospital and that the 18 MSO of Kings County, LLC, is a New York limited liability 19 corporation. 20 HEARING OFFICER SCHAEFER: <small>That's what the stip says. The</small> 21 stip speaks for itself. Can I see the stip for a second, 22 Barry? 23 MR. FRANK: We stipulate that the Union is a labor 24 organization. 25 HEARING OFFICER SCHAEFER: <small>The stip doesn't say otherwise.</small></p>
<p>Page 10</p> <p>1 hearing from the 31st to Tuesday, April 5th. 2 MS. WILCOX: That is in the record as 1(c). 3 HEARING OFFICER SCHAEFER: <small>It's in there?</small> 4 MS. WILCOX: Yeah, order rescheduling. 5 HEARING OFFICER SCHAEFER: <small>Oh, then never mind.</small> 6 MS. WILCOX: I was asking for the request by the Employer. 7 HEARING OFFICER SCHAEFER: <small>I don't think that's necessary.</small> 8 Again, if you want to put it in there -- 9 MS. WILCOX: Okay, I will. 10 HEARING OFFICER SCHAEFER: <small>I can do that, but we'll do</small> 11 it later. I'm sorry, the order postponing the hearing is 12 already in the formal papers. Could you pass the formal papers 13 back up if you're done with them just so we can keep them with 14 the court reporter? 15 All right, are there any motions to -- 16 MR. FRANK: So it's clear, we're objecting to the 17 statement in the exhibit that the Employer is a single entity 18 as listed in the document. 19 HEARING OFFICER SCHAEFER: <small>You were going to go through</small> 20 that. Are there any motions to intervene in these proceedings 21 to be submitted to the hearing officer for ruling by the 22 regional director at this time? 23 Are any parties aware of any other employers or labor 24 organizations that have an interest in this proceeding? 25 The hearing officer hears no response.</p>	<p>Page 12</p> <p>1 to the receipt of Board Exhibit 2? 2 MS. WILCOX: No objection. 3 MR. FRANK: No objection. 4 HEARING OFFICER SCHAEFER: <small>Nothing to the receipt, Board</small> 5 Exhibit 2 is received in evidence. 6 (Board's B-2 received.) 7 HEARING OFFICER SCHAEFER: <small>That's part of the hearing.</small> 8 of the collective bargaining history between the parties, there 9 is a contract. Among the petitioned-for unit, is it correct 10 that there is no contract covering the petitioned-for unit of 11 employees who are working at One Prospect Park West, which is 12 the location? There's no contract there, correct? 13 MS. WILCOX: There is no contract for the -- covering the 14 petitioned-for employees. 15 HEARING OFFICER SCHAEFER: <small>Yes, there is.</small> 16 relationship between 1199, the Petitioner, and New York 17 Methodist Hospital covering certain employees -- technical 18 employees at New York Methodist, correct? 19 MS. WILCOX: No. 20 MR. FRANK: Not exactly. 21 HEARING OFFICER SCHAEFER: <small>Somebody?</small> 22 MS. WILCOX: There is a collective bargaining agreement 23 between 1199 and the League of Voluntary Hospitals of which 24 Methodist Hospital is a member of the league, and the unit that 25 is at Methodist Hospital includes service, maintenance,</p>

<p style="text-align: right;">Page 13</p> <p>1 clerical, technical, and professional employees at Methodist 2 Hospital covering various locations. 3 HEARING OFFICER SCHAEFER: <small>He thinks, do you agree with</small> 4 that? 5 MR. FRANK: No. 6 HEARING OFFICER SCHAEFER: <small>Explain why?</small> 7 MR. FRANK: There is a -- I agree there is a collective 8 bargaining agreement between 1199 and the League of Voluntary 9 Hospitals and Homes of New York, which is a multi-employer 10 collective bargaining agreement. 11 HEARING OFFICER SCHAEFER: <small>And who does it cover?</small> 12 MR. FRANK: New York Methodist is a member of the League 13 of Voluntary Hospitals and that agreement is effective for 14 employees of New York Methodist Hospital that are employed in 15 units that have been previously certified or recognized by the 16 NLRB where the Union is the representative of those 17 individuals. 18 HEARING OFFICER SCHAEFER: <small>Where have these individuals?</small> 19 MR. FRANK: I don't have that offhand. There are numerous 20 Board certifications I believe of separate units over the last 21 30 or 40 years. 22 HEARING OFFICER SCHAEFER: <small>Is that what you're saying?</small> 23 said do you not agree with? 24 MR. FRANK: I believe she said that there was one combined 25 unit of service, maintenance, technical, and clerical</p>	<p style="text-align: right;">Page 15</p> <p>1 organization? 2 MR. FRANK: New York State Nurses Association. 3 HEARING OFFICER SCHAEFER: <small>Okay. And just to clarify,</small> 4 those are the registered nurses at New York Methodist. Ms. 5 Wilcox, is it 1199's contention that -- or just to clarify, 6 1199 is not seeking to represent any registered nurses in this 7 matter, correct? 8 MS. WILCOX: That's correct. 9 MR. FRANK: Can we stipulate that registered nurses are 10 professional employees within the meaning of the Act? 11 MS. WILCOX: I'm asking what relevance that has in this 12 meeting with respect to 1199 is not seeking to represent RNs in 13 this petition. 14 MR. FRANK: Well, 1199 is seeking -- 15 HEARING OFFICER SCHAEFER: <small>There's nothing here -- it's not</small> 16 are not at issue in this matter then it's not necessary to 17 stipulate whether they are professional employees. 18 MR. FRANK: I believe Ms. Wilcox said that the Union 19 represented professional employees at New York Methodist. 20 MS. WILCOX: 1199 does not represent registered nurses. 21 HEARING OFFICER SCHAEFER: <small>Okay. Does 1199 represent</small> 22 professional employees at New York Methodist? 23 MS. WILCOX: Yes. 24 HEARING OFFICER SCHAEFER: <small>He thinks, do you agree with</small> 25 with that?</p>
<p style="text-align: right;">Page 14</p> <p>1 employees, and that is not accurate. I believe there are 2 separate units that have been certified. 3 HEARING OFFICER SCHAEFER: <small>Do they have separate</small> 4 collective bargaining units? 5 MR. FRANK: In the collective bargaining agreement between 6 the League and 1199, I believe Stipulation 1 specifically 7 recognized that the agreement applies to those units that were 8 certified by the Labor Board. 9 HEARING OFFICER SCHAEFER: <small>Is that what the Labor Board</small> 10 may have certified different units but the units then fall 11 under one -- 12 MR. FRANK: They remain separate units. 13 HEARING OFFICER SCHAEFER: <small>They remain separate units but</small> 14 they are covered by one single collective bargaining agreement, 15 the League agreement for terms and conditions of employment. 16 MR. FRANK: Absent some exclusion or some provision that 17 provides otherwise, I think that would be accurate. 18 HEARING OFFICER SCHAEFER: <small>He thinks, do you agree with</small> 19 anything? 20 MS. WILCOX: No. 21 MR. FRANK: Let me add one thing. 1199 does not represent 22 any of the registered nurses at New York Methodist Hospital. 23 HEARING OFFICER SCHAEFER: <small>Who does?</small> 24 MR. FRANK: Another labor organization. 25 HEARING OFFICER SCHAEFER: <small>What is that labor</small></p>	<p style="text-align: right;">Page 16</p> <p>1 MR. FRANK: I think that might be factual. I mean is the 2 Union claiming that registered nurses are not professional 3 employees? 4 MS. WILCOX: No, the Union is not taking that position. 5 But the Union is taking the position that we are not seeking to 6 represent registered nurses under either of the petitions in 7 this matter. 8 MR. FRANK: Okay. 9 HEARING OFFICER SCHAEFER: <small>There's nothing here -- it's</small> 10 all right, time to move on. 11 MS. WILCOX: Registered nurses are not part of the 1199 12 bargaining unit. 13 HEARING OFFICER SCHAEFER: <small>There's nothing here -- it's</small> 14 tomorrow, what I'm going to ask is that I'm going to need a 15 list in evidence of the job classifications at New York 16 Methodist that are covered by the League agreement. I would 17 like somebody to break that down for me and put it in evidence. 18 Okay? 19 MR. FRANK: Can I ask a question? The petition seeks to 20 represent professional employees. 21 HEARING OFFICER SCHAEFER: <small>There's nothing here -- it's</small> 22 that up. That's the next issue. 23 MR. FRANK: What professional employees are they 24 seeking -- 25 HEARING OFFICER SCHAEFER: <small>There's nothing here -- it's</small></p>

<p style="text-align: right;">Page 17</p> <p>1 I want to get into in terms of the appropriateness of the unit. 2 Now the petition -- for the purposes of this conversation and 3 for the purposes of the reader of the record, we are only 4 talking right now about the Wound Care Center, so leaving aside 5 the issue of Urology. 6 MR. FRANK: What professional employees are sought in this 7 unit? That's what I don't understand. Wound care? It is 8 seeking all professional -- 9 HEARING OFFICER SCHAEFER: <small>I understand.</small> 10 MR. FRANK: -- and nonprofessional employees. I'm asking 11 who the professionals are. 12 HEARING OFFICER SCHAEFER: <small>From reading it, that's better.</small> 13 one second. Ms. Wilcox -- 14 MS. WILCOX: Just give me a moment to look at the 15 petition. 16 HEARING OFFICER SCHAEFER: Sure. 17 MS. WILCOX: Actually, in this particular unit, we are -- 18 in Wound Care the Union is not seeking to represent any 19 professional employees in this unit. We are seeking, just so 20 the record is clear, it is office assistants, clinical 21 assistants, office manager, LPNs, and a certified hypobaric 22 technician. 23 HEARING OFFICER SCHAEFER: <small>Just to clarify is the</small> 24 Petitioner agreeing to amend then the description of unit 25 involved to be all full-time, regular part-time nonprofessional</p>	<p style="text-align: right;">Page 19</p> <p>1 Hospital inasmuch as the Union represents employees at the 2 hospital who fall and are within the categories of employees 3 that we are petitioning for at One Prospect Park West. 4 HEARING OFFICER SCHAEFER: <small>That's how they put it.</small> 5 this to the Employer. Would the Employer stipulate that a unit 6 including all full and regular part-time nonprofessional 7 employees employed by New York Methodist Hospital -- well, I 8 understand the issue with -- with the employer issue aside, is 9 a unit of -- well, you know what, I'm not going to try to get 10 you to stip, to agree to anything on that. But do you now 11 understand the changes that the 1199 has made in terms of it is 12 not seeking a residual unit in terms of a unit that will stand 13 alone. It is seeking -- 14 MR. FRANK: That's not what I heard from Ms. Wilcox. I 15 didn't hear her say that. I heard that the Union is trying to 16 seek a residual unit. You don't want to use that word but I 17 think that's what she's asking. 18 HEARING OFFICER SCHAEFER: How? 19 MR. FRANK: The Union seeks to bring the employees who are 20 petitioned for into the hospital unit at One Prospect Park 21 West, to become part of the NYM unit. Isn't that a request for 22 a residual unit? I think it's certainly inappropriate. 23 HEARING OFFICER SCHAEFER: <small>Isn't that a</small> 24 self-determination, though, selection as opposed to a residual 25 unit.</p>
<p style="text-align: right;">Page 18</p> <p>1 employees employed by New York Methodist? 2 MS. WILCOX: Yes, we could -- we would seek that, yes. 3 HEARING OFFICER SCHAEFER: <small>Including the office assistant.</small> 4 clerical assistant, office manager, licensed practical nurses, 5 and certified hypobaric technician? 6 MS. WILCOX: Yes. I mean that would -- I mean those are 7 the job titles we're looking for. We have not, you know, we 8 believe they would be nonprofessionals, but we haven't heard 9 the Employer's position as to whether they believe they are 10 professionals. 11 HEARING OFFICER SCHAEFER: <small>I think this is a good idea.</small> 12 address the issue of the use of the term residual in this 13 document. I know we talked about this off the record. I would 14 like -- I'm asking the Petitioner just to explain -- the 15 petition uses the term residual which might be a misnomer in 16 terms of Board language that we're trying to use. The 17 intention of the Petitioner as far as I understand it is to 18 bring the petitioned-for employees into the unit at New York 19 Methodist Hospital, into the unit that already exists at New 20 York Methodist, not to create a self-sufficient unit at One 21 Prospect Park West. 22 MS. WILCOX: Yeah. I mean that would be our position that 23 the Union is looking -- as you say, the Union is looking to 24 have these workers who we're petitioning for at One Prospect 25 Park West to become part of the 1199 unit at New York Methodist</p>	<p style="text-align: right;">Page 20</p> <p>1 MR. FRANK: You're trying to correct the petition. She 2 calls it a residual unit and it strikes me as this is a 3 residual unit, inappropriate, but the Union is calling it a 4 residual unit. You're trying to help them and call it 5 something else. 6 MS. WILCOX: I called it residual. 7 HEARING OFFICER SCHAEFER: <small>I want that you should know.</small> 8 me of trying to help anybody. 9 MR. FRANK: No, I didn't accuse. 10 HEARING OFFICER SCHAEFER: <small>No, no, I understand.</small> 11 MR. FRANK: But they call it a residual unit and they want 12 to make it part of the hospital unit even though MSO of Kings 13 County is a separate employer. 14 HEARING OFFICER SCHAEFER: <small>Ms. Wilcox, do you want to</small> 15 respond to that? 16 MS. WILCOX: I think I stated it clearly that the Union is 17 looking to have these workers at One Prospect Park West be 18 residual to the -- residual meaning becoming part of, they 19 would vote as to whether they want to be included with the unit 20 of workers who are covered by the 1199 contract at New York 21 Methodist Hospital. 22 HEARING OFFICER SCHAEFER: <small>For the meeting on the petition.</small> 23 -- go ahead. 24 MS. WILCOX: I'm sorry. 25 HEARING OFFICER SCHAEFER: <small>For the meeting on the petition.</small></p>

<p style="text-align: right;">Page 21</p> <p>1 would be a question about whether the employees wanted to be 2 included in the unit that exists at New York Methodist. 3 MS. WILCOX: Yes. 4 HEARING OFFICER SCHAEFER: <small>Is that a question asking a</small> 5 separate standalone unit. 6 MS. WILCOX: No. But as I said I guess off the record 7 when we had this discussion, I said the Union will proceed in 8 any election that the Board deems to be appropriate. 9 HEARING OFFICER SCHAEFER: <small>Right then. I've heard of the</small> 10 record? 11 MR. FRANK: Wait a minute. I truly don't understand what 12 the Union's position is. They're saying they want to be 13 included in the hospital unit or they want to do both? 14 HEARING OFFICER SCHAEFER: <small>The Union and the Wilcox's</small> 15 saying and it's typical that parties will stipulate to whatever 16 unit the Board then in its decision deems appropriate. She's 17 not asking for both. 18 MR. FRANK: And whoever the employer -- 19 HEARING OFFICER SCHAEFER: <small>That's a question -- that's</small> 20 a question that I have to ask anyway is whether the parties 21 consent to any -- 22 MR. FRANK: But that usually comes up as to what's an 23 appropriate unit with an employer. We have to different 24 employers here. I think she's asking to be included in one 25 employer but she'll also take an election with the other</p>	<p style="text-align: right;">Page 23</p> <p>1 establish on the record in this matter. 2 HEARING OFFICER SCHAEFER: <small>Do you want to represent the</small> 3 Mr. Frank? 4 MR. FRANK: Is the Union withdrawing or amending its 5 petition to delete the references to professional employees in 6 Case Number 172398? 7 MS. WILCOX: We would want to hear from the Employer as to 8 whether they believe any of those are professional employees. 9 We have not heard any issue with respect to these. The 10 statement of position that the Board provided to us yesterday 11 did not make reference to the Employer taking a position on any 12 of those were professional employees. And it is the Union's 13 position that the petitioned-for employees are not professional 14 employees. 15 HEARING OFFICER SCHAEFER: <small>You mean the job</small> 16 classifications listed are not professional. 17 MS. WILCOX: The job classifications are not professional. 18 So where it says all full-time and regular part-time 19 professional and nonprofessional employees employed at the 20 Wound Center, we don't believe that those petitioned-for 21 employees are in fact professional employees. 22 HEARING OFFICER SCHAEFER: <small>Are you clearly, are you of</small> 23 the way the petition is drafted, the titles that the Union is 24 seeking to include are office assistant, clerical assistant, 25 office manager, licensed practical nurse, and certified</p>
<p style="text-align: right;">Page 22</p> <p>1 employer? Is that what I'm hearing? 2 MS. WILCOX: I think I can answer for myself. 3 HEARING OFFICER SCHAEFER: Sure. 4 MS. WILCOX: The fact is that the Union believes and we 5 haven't discussed this on the record as to who the employer is, 6 the Union believes that the employer of these employees at One 7 Prospect Park West, who are currently unrepresented by any 8 union, who we're now seeking to represent via these petitions, 9 we believe that the employer is both New York Methodist 10 Hospital and MSO of Kings County, LLC. 11 The Union has filed these petitions with the understanding 12 and belief that MSO is really not an active employer. It's 13 more like a payroll service. And that New York Methodist 14 Hospital is really the employer. 15 Our secondary position is that MSO and New York Methodist 16 Hospital are single employers. And our other position is that 17 we believe that Methodist Hospital and MSO are joint employers. 18 But as I said our position is that these are petitions where 19 these workers are seeking to be represented by 1199 and the 20 Union would proceed to any election that the Board deems to be 21 appropriate based upon who are the employers and then 22 appropriateness of the unit. 23 We have subpoenaed several documents from both MSO and 24 from New York Methodist Hospital. We need to obtain these 25 documents to make a better assessment of what facts we can</p>	<p style="text-align: right;">Page 24</p> <p>1 hypobaric technician. Now are there others? 2 MS. WILCOX: This is a correction. It's clinical 3 assistant, not clerical assistant. 4 HEARING OFFICER SCHAEFER: <small>Oh, the word. Clinical</small> 5 assistant. That's me reading that wrong. Are those the only 6 classifications at issue in this case? 7 MS. WILCOX: Well, the -- 8 HEARING OFFICER SCHAEFER: <small>Protein Research Center</small> 9 MS. WILCOX: In the off the record discussions I advised 10 yourself and the counsel that -- 11 MR. FRANK: I object to referring to the off the record 12 conversation. I think we ought to be doing this all on the 13 record. 14 HEARING OFFICER SCHAEFER: <small>That's why we are. Clinical</small> 15 Ms. Wilcox. 16 MS. WILCOX: And so as I informed the counsel and the 17 hearing officer that the Union was in effect amending its 18 petition in this matter to include the Foot & Ankle Center 19 which is located in Suite B of One Prospect Park West and for 20 those employees it actually includes the clinical assistants, 21 that's also at Wound Care, as well as at Foot & Ankle Center, 22 and then the office manager in Foot & Ankle Center. 23 MR. FRANK: Objection to that because that's not in the 24 petition. It's a separate entity, and there has been no prior 25 notice, and the petition does not cover that.</p>

1 HEARING OFFICER SCHAEFER: The original document with case
2 on that.
3 MR. FRANK: We're not prepared for that issue.
4 HEARING OFFICER SCHAEFER: Excluded. The unit --
5 will before I would ever make it and I'm not going to make you
6 respond to that right now.
7 MR. FRANK: Thank you.
8 HEARING OFFICER SCHAEFER: Excluded. The unit --
9 just for a second, about that amendment, the titles that are at
10 issue in this matter as listed in the petition are office
11 assistant, clinical assistant, office manager, licensed
12 practical nurse, and hyperbaric technician in the Wound Care
13 Center. Are those the only job classifications at issue in
14 this petition?
15 MS. WILCOX: To answer that question with respect to Wound
16 Care, the Union -- with respect to the office manager in Wound
17 Care, the Union is not seeking to represent that individual.
18 HEARING OFFICER SCHAEFER: Excluded. The unit --
19 with respect to -- well, I'll keep that on the record. I
20 understand.
21 MR. FRANK: What is the Union amending out?
22 HEARING OFFICER SCHAEFER: The unit is not amending out
23 anything. That's my word and I shouldn't have used it. But
24 they're saying -- the Union has said they are not seeking the
25 office manager in Wound Care.

1 MR. FRANK: Do I also understand that the Union is not
2 seeking the registered nurse in Wound Care?
3 HEARING OFFICER SCHAEFER: The original document with case
4 listed classification. But just to clarify, Ms. Wilcox, is
5 that the Union's position?
6 MS. WILCOX: That's correct. The petition does not make
7 reference to registered nurse or clinical nurse.
8 MR. FRANK: In our statement of position we refer to that
9 as the clinical nurse. In other words the title sought
10 professional and nonprofessional in the description, so we in
11 our listing of excluded titles excluded the clinical nurse who
12 is a registered nurse. That's why I just want to make sure --
13 HEARING OFFICER SCHAEFER: I see, okay.
14 MR. FRANK: -- that our title clinical nurse is the
15 professional registered nurse and the Union is not seeking that
16 notwithstanding that the petition is seeking professional on
17 its face.
18 HEARING OFFICER SCHAEFER: Ms. Wilcox?
19 MS. WILCOX: That's correct.
20 HEARING OFFICER SCHAEFER: Okay.
21 MR. FRANK: Can I ask a question?
22 HEARING OFFICER SCHAEFER: Yes.
23 MR. FRANK: In the Union's description of the unit they
24 are seeking to include the nonprofessional employees employed
25 by, they list the two entities, in a unit residual to the

1 existing professional and nonprofessional unit represented at
2 the hospital. Can I ask the Union to identify the professional
3 and nonprofessional units that they seek to have the Wound Care
4 employees appended to?
5 MS. WILCOX: The unit that's represented by 1199 at New
6 York Methodist Hospital. There's numerous titles there that
7 are both nonprofessional and professional.
8 HEARING OFFICER SCHAEFER: Excluded. The unit --
9 going to get into this in terms of the job classifications.
10 What is the Employer's position as to who is a professional
11 versus nonprofessional employee among just the Wound Care?
12 I did not do this but I have to do it on the record. The
13 Employer's statement of position has been marked as Board
14 exhibit -- I'm sorry, I apologize for using the word Employer.
15 MSO's statement of position has been marked as 3, Board
16 Exhibit 3, and New York Methodist has been marked as Board
17 Exhibit 4, the statements of position.
18 (Board's B-3 and B-4 identified.)
19 HEARING OFFICER SCHAEFER: The original document with case
20 unless there is any objection.
21 (Board's B-3 and B-4 received.)
22 MS. WILCOX: I have no objection to the receipt of those
23 documents except that I would note for the record that I never
24 received a copy according to the Board's rules directly from
25 MSO or from New York Methodist. But I was provided a copy upon

1 request by the region.
2 MR. FRANK: We served your office.
3 MS. WILCOX: Well, I was there and I never received a copy
4 by email or by mail.
5 HEARING OFFICER SCHAEFER: Excluded. The unit --
6 I looked at it last night. It does say -- it's got your email
7 address on it.
8 MS. WILCOX: The copy I saw, it had my email. But I'm
9 saying I did not receive it.
10 MR. FRANK: We served you at your address and
11 gwilcox@levyratner.com.
12 MS. WILCOX: I saw that on the copy, but I'm just saying
13 I never received it.
14 HEARING OFFICER SCHAEFER: Excluded. The unit --
15 given that we're looking at -- Barry, just make sure you've got
16 172398 there. That's the one.
17 MR. FRANK: I think it's 173298.
18 HEARING OFFICER SCHAEFER: Excluded. The unit --
19 the 2 and the 3 are inverted on -- no, they're correct, sorry.
20 Anyway, so on the Employer's Attachment B and C which deal with
21 the list of employees in the proposed unit and the list of
22 employees --
23 MR. FRANK: Are you referring to MSO's?
24 HEARING OFFICER SCHAEFER: Excluded. The unit --
25 Well, yes, I am referring to MSO's.

<p style="text-align: right;">Page 29</p> <p>1 MR. FRANK: MSO, in our view, is the Employer. 2 HEARING OFFICER SCHAEFER: <small>You, that's the issue that</small> 3 we're dancing around here. 4 MR. FRANK: If MSO is Employer, you and I are in good 5 shape. 6 HEARING OFFICER SCHAEFER: <small>Right, the MSO doesn't have</small> 7 they are the Employer and New York Methodist does not concede 8 that they are the Employer. That's part of the issue with the 9 names that we're dealing with. 10 Now in Attachment B of MSO's statement of position there 11 are job classifications listed. Now the office manager we just 12 dealt with. The Union is stipulating that it is not seeking 13 the office manager in Wound Care facility. Correct? 14 MS. WILCOX: That's correct. 15 HEARING OFFICER SCHAEFER: <small>As well as the clinical name</small> 16 correct, Ms. Wilcox? 17 MS. WILCOX: That is correct. 18 HEARING OFFICER SCHAEFER: <small>So among the job</small> 19 classifications then remaining, just using Attachment B as an 20 example -- does everyone have copies or does anyone need one? 21 (Pause.) 22 HEARING OFFICER SCHAEFER: <small>All right. So looking at</small> 23 Attachment B, I just want to go through these job 24 classifications so we can get this on the record. 25 The office assistant, is the Employer's position that</p>	<p style="text-align: right;">Page 31</p> <p>1 MR. FRANK: The clinical assistants and the hyperbaric 2 technologist, we've both stipulated are technical employees. 3 Right? In acute care hospitals, which the Union is trying to 4 put -- the Union is trying to put these employees in a hospital 5 unit. 6 HEARING OFFICER SCHAEFER: Yes. 7 MR. FRANK: Technical employees and clerical employees are 8 in different units. The Board has eight standard units. To 9 the extent that we have clerical employees, if they were in the 10 hospital unit, they'd be in the clerical unit. And the 11 technical employees would be excluded from that unit. And the 12 technical employees would be excluded (sic) in the technical 13 unit and not in the clerical, yeah. So in other words if they 14 are asking for a residual unit into the hospital units, they 15 can't be in the same unit because one is technical and one is 16 clerical, and that's inconsistent with the Board's acute care 17 hospital unit. 18 HEARING OFFICER SCHAEFER: <small>Based on the testimony,</small> 19 self-determination election for each of those, for the 20 technical employees and for the clerical employees, would the 21 Employer concede that that would be appropriate? I mean 22 notwithstanding the concern about whether they are joint or 23 single employers. Is that what you're saying? 24 MR. FRANK: MSO says the employees of the MSO would be an 25 appropriate unit for bargaining at Wound Care, that the five</p>
<p style="text-align: right;">Page 30</p> <p>1 person is professional or nonprofessional? 2 MR. FRANK: That would be a clerical title. Office 3 assistant is a clerical title. 4 HEARING OFFICER SCHAEFER: <small>Does the Union or Employer</small> 5 agree with that? 6 MS. WILCOX: Yes. 7 HEARING OFFICER SCHAEFER: <small>Clinical assistant?</small> 8 MR. FRANK: That is an LPN which would be a technical 9 title. 10 HEARING OFFICER SCHAEFER: <small>Ms. Wilcox, is that --</small> 11 MS. WILCOX: Yes, I -- 12 HEARING OFFICER SCHAEFER: <small>There is agreement there?</small> 13 MS. WILCOX: There is agreement, yeah. 14 HEARING OFFICER SCHAEFER: <small>Hyperbaric technologist?</small> 15 MR. FRANK: That would also be a technical title. 16 HEARING OFFICER SCHAEFER: <small>Ms. Wilcox?</small> 17 MS. WILCOX: The Union would agree. 18 HEARING OFFICER SCHAEFER: <small>Now clinical name we've</small> 19 already dealt with. And we've already dealt with the office 20 assistant and the clinical assistant, okay. 21 Now in Attachment C where the Union -- I'm sorry, where 22 MSO listed employees to be excluded, that's more of a larger 23 argument. 24 MR. FRANK: If you want me to explain the exclusion? 25 HEARING OFFICER SCHAEFER: Sure.</p>	<p style="text-align: right;">Page 32</p> <p>1 employees share a community of interest, they work together, 2 and that would be an appropriate bargaining unit. Because the 3 Union is seeking to put the MSO employees into a unit of 4 another employer, the hospital, I'm raising the issue that at 5 the hospital, the technical employees and the clerical 6 employees are in different units. It's not one unit. Because 7 under the Board's acute care hospital rules those are separate 8 bargaining units. 9 HEARING OFFICER SCHAEFER: <small>So what I'm asking you is</small> 10 assuming that New York Methodist consented to the Employer's -- 11 to MSO's employees being included in this unit, would it be 12 appropriate to order self-determination elections for the techs 13 to go into the tech unit and the clerical to go into the 14 clerical unit? 15 MR. FRANK: And my answer to that question is no. 16 HEARING OFFICER SCHAEFER: Why not? 17 MR. FRANK: Because what the Union is seeking to do in 18 that hypothetical is an undue proliferation bargaining unit. 19 In other words, the Union cannot say I'd like to add two people 20 to a unit, let's have an election; I'd like to add two people 21 to another unit and have another election. 22 The Board, when it adopted the acute care units and those 23 rules, specifically held that they were not going to allow that 24 type of seriatim residual units. 25 HEARING OFFICER SCHAEFER: <small>I think that's what the Board</small></p>

Page 33	Page 35
<p>1 seems to be some, and it might be on my part, confusion about</p> <p>2 when you're talking about proliferation of units and residual</p> <p>3 units, if -- the purpose of this is not to add. The purpose of</p> <p>4 a self-determination election, which again I think is the more</p> <p>5 appropriate word that residual in this case because residual</p> <p>6 seems to imply that there would be two units as opposed to one</p> <p>7 large unit. In a self-determination election, the employees</p> <p>8 would be choosing to enter the larger unit and so there would</p> <p>9 not be a proliferation of additional units. There would be one</p> <p>10 single unit.</p> <p>11 Ms. Wilcox, that's the Union's position, right?</p> <p>12 MS. WILCOX: Yes.</p> <p>13 MR. FRANK: One, it's based on a hypothetical where</p> <p>14 Methodist would not agree to that.</p> <p>15 HEARING OFFICER SCHAEFER: Yes.</p> <p>16 MR. FRANK: But there is no integration between the MSO</p> <p>17 employees and the Methodist Hospital employees. There is no</p> <p>18 integration between those jobs. The MSO employees work at One</p> <p>19 Prospect Park West. They do not work in the acute care</p> <p>20 hospital. Acute care hospital employees do not work in the MSO</p> <p>21 suite at Wound Care.</p> <p>22 HEARING OFFICER SCHAEFER: Correct.</p> <p>23 MR. FRANK: So you don't have community of interest</p> <p>24 between the groups. Therefore, a self-determination election,</p> <p>25 to use your term, would not be appropriate.</p>	<p>1 certifications. But it's my understanding that the unit that</p> <p>2 1199 represents at Methodist Hospital is a nonprofessional and</p> <p>3 professional unit. And so that unit is not just, you know, so</p> <p>4 it's a mixture of service, maintenance, clerical, technical,</p> <p>5 and professional employees and that it's not just one</p> <p>6 particular unit per classification or one particular set of</p> <p>7 categories of workers.</p> <p>8 HEARING OFFICER SCHAEFER: <small>How are you responding to this?</small></p> <p>9 that we would order the techs to do a sonatone (ph.)?</p> <p>10 MS. WILCOX: Not techs, no, because the technical</p> <p>11 employees --</p> <p>12 HEARING OFFICER SCHAEFER: <small>This is nonprofessional.</small></p> <p>13 MS. WILCOX: They are nonprofessional. So if we were</p> <p>14 petitioning for professional employees then they would be</p> <p>15 entitled to vote as to whether they wanted to be in a unit that</p> <p>16 includes both nonprofessional and professional employees. But</p> <p>17 here in this particular petition for Wound Care there are no</p> <p>18 employees that the Union is petitioning for who are</p> <p>19 professional employees.</p> <p>20 HEARING OFFICER SCHAEFER: <small>How do you respond to this?</small></p> <p>21 Employer's argument about the acute care distinctions about</p> <p>22 techs and clerical?</p> <p>23 MS. WILCOX: I think that I mean the assumption that is</p> <p>24 being made is that clerical and technical employees cannot be</p> <p>25 in the same unit. But that is not necessarily the case. If</p>
Page 34	Page 36
<p>1 HEARING OFFICER SCHAEFER: <small>Right. And that's one of the</small></p> <p>2 issues for hearing is the community of interest in the parties,</p> <p>3 so I understand that. Yes, so I understand all the --</p> <p>4 MR. FRANK: Taking a hypothetical consent, you still</p> <p>5 wouldn't have community of interest for the MSO employees to</p> <p>6 vote on whether they want to go into the hospital unit.</p> <p>7 HEARING OFFICER SCHAEFER: <small>Okay. Subject to the parties or</small></p> <p>8 be clear --</p> <p>9 MR. FRANK: By the way, in that case, in case everybody</p> <p>10 knows, there is a case called Lawrence Memorial Hospital.</p> <p>11 HEARING OFFICER SCHAEFER: <small>Have you got a cite?</small></p> <p>12 MR. FRANK: I think it's 1-RC-134298, October of 2014.</p> <p>13 HEARING OFFICER SCHAEFER: <small>So in context of the issue with</small></p> <p>14 -- just from 1199's perspective, the Petitioner's perspective</p> <p>15 here, if the Board were to find that MSO and New York Methodist</p> <p>16 are single employers then would -- does the Petitioner, do you</p> <p>17 understand what I've just asked the Employer in terms of the</p> <p>18 question about whether the techs would join a tech unit and the</p> <p>19 clerical workers would join the clerical unit where I</p> <p>20 understand that ultimately it's the same -- it seems like it's</p> <p>21 the same collective bargaining agreement. The effect may not</p> <p>22 be the same, may not be different from a CBA perspective, but I</p> <p>23 can understand what the Employer is saying in terms of the</p> <p>24 units are effectively different based on Board certifications.</p> <p>25 MS. WILCOX: I have not looked at the Board</p>	<p>1 there have been nonconforming units over time, the Board has</p> <p>2 listed those eight defined units but the reality is that if the</p> <p>3 parties have entered into other arrangements in terms of what</p> <p>4 the issues are of who is being covered that I think the Board</p> <p>5 can now look at what is the circumstances going forward.</p> <p>6 The fact that the Union is seeking to represent both</p> <p>7 clerical and technical employees, that that would be an</p> <p>8 appropriate request --</p> <p>9 HEARING OFFICER SCHAEFER: <small>Based on the testimony</small></p> <p>10 history of New York Methodist?</p> <p>11 MS. WILCOX: Yeah.</p> <p>12 HEARING OFFICER SCHAEFER: <small>All right, that's the problem.</small></p> <p>13 MR. FRANK: Can I respond?</p> <p>14 HEARING OFFICER SCHAEFER: <small>Absolutely.</small></p> <p>15 MR. FRANK: I'm looking at a document in Case Number</p> <p>16 29-RC-11967, at this region, involving New York Methodist</p> <p>17 Hospital and 1199. The Board certified the labor organization,</p> <p>18 this is in December of 2010, may bargain for the employees in</p> <p>19 the above-named categories as part of the existing technical</p> <p>20 employee bargaining unit which it represents.</p> <p>21 HEARING OFFICER SCHAEFER: <small>So I understand you --</small></p> <p>22 MR. FRANK: No, no. You've already certified there is a</p> <p>23 separate technical unit. I think Ms. Wilcox is mistaken in</p> <p>24 saying it's not a separate technical unit because that was the</p> <p>25 Board certification in 2010.</p>

Page 37	Page 39
<p>1 MS. WILCOX: Can you repeat, give me the case number?</p> <p>2 MR. FRANK: Sure, 29-RC-11967.</p> <p>3 HEARING OFFICER SCHAEFER: <small>If anyone has any other ones.</small></p> <p>4 I'd love to have that in the record. We can take</p> <p>5 administrative notice of it, but if you have other -- I can</p> <p>6 pull them tonight, too, after we finish here today, so if you</p> <p>7 have certs that you want me to pull, let me know. But I think</p> <p>8 the question still remains though if in fact --</p> <p>9 MR. FRANK: This one involved -- this was the</p> <p>10 polysomnographic technicians employed at the hospital, so the</p> <p>11 certification of results.</p> <p>12 HEARING OFFICER SCHAEFER: <small>All right.</small></p> <p>13 MR. FRANK: We can make a copy of that.</p> <p>14 HEARING OFFICER SCHAEFER: <small>Oh, yes. As you want to</small></p> <p>15 respond to that?</p> <p>16 MS. WILCOX: I would like to see a copy before I respond.</p> <p>17 MR. FRANK: How would you like to mark the exhibit? You</p> <p>18 want to mark it as an exhibit?</p> <p>19 HEARING OFFICER SCHAEFER: <small>Yeah. That's your choice.</small></p> <p>20 to her and then we'll make copies.</p> <p>21 (Pause.)</p> <p>22 MS. WILCOX: You're offering this document?</p> <p>23 MR. FRANK: The hearing officer requested it. I have no</p> <p>24 objection.</p> <p>25 HEARING OFFICER SCHAEFER: <small>I would like it in the record.</small></p>	<p>1 clerical unit and separate for service and maintenance.</p> <p>2 HEARING OFFICER SCHAEFER: <small>Think if you have numbers?</small></p> <p>3 MR. FRANK: I don't have them, unfortunately.</p> <p>4 HEARING OFFICER SCHAEFER: <small>All right. We can do that.</small></p> <p>5 to try to find some old ones, but if anybody has numbers in</p> <p>6 their files like case numbers that they can send us it makes it</p> <p>7 easier, or years for that matter, it helps us.</p> <p>8 MR. FRANK: I would think the Union's got the best files</p> <p>9 on this.</p> <p>10 MS. WILCOX: You would think so.</p> <p>11 HEARING OFFICER SCHAEFER: <small>Okay. There's no harm in that.</small></p> <p>12 want to get this on the record, if the Board -- never mind.</p> <p>13 Mr. Frank, could you just explain for the record the concern</p> <p>14 about -- let's do it this way. The Employer -- I'm sorry, MSO</p> <p>15 and New York Methodist have objected to the caption of the</p> <p>16 documents in this case. And so on the record what is the full</p> <p>17 and correct name of New York Methodist Hospital?</p> <p>18 MR. FRANK: The correct name of New York Methodist</p> <p>19 Hospital is New York Methodist Hospital.</p> <p>20 HEARING OFFICER SCHAEFER: <small>And what is the full and</small></p> <p>21 correct name of MSO?</p> <p>22 MR. FRANK: MSO of Kings County, LLC.</p> <p>23 HEARING OFFICER SCHAEFER: <small>So to the extent that the</small></p> <p>24 caption in this case reflects the Petitioner's petition, the</p> <p>25 Employer -- I'm sorry, MSO and New York Methodist make -- why</p>
Page 38	Page 40
<p>1 MS. WILCOX: All right.</p> <p>2 HEARING OFFICER SCHAEFER: <small>Thank you for that -- can you</small></p> <p>3 okay with --</p> <p>4 MR. FRANK: I'm offering -- would it be Board 1?</p> <p>5 HEARING OFFICER SCHAEFER: <small>The going to mark this as</small></p> <p>6 Employer or who is offering this? No, New York Methodist, so</p> <p>7 we'll do it as --</p> <p>8 MR. FRANK: MSO-1?</p> <p>9 HEARING OFFICER SCHAEFER: <small>Yeah, MSO-1. Is that all</small></p> <p>10 right, because we have two separate --</p> <p>11 MR. FRANK: Do you want to make it Board? Do I make this</p> <p>12 a Board exhibit since it's a Board certification?</p> <p>13 HEARING OFFICER SCHAEFER: <small>No, we'll just do MSO-1.</small></p> <p>14 (Employer MSO-1 identified.)</p> <p>15 HEARING OFFICER SCHAEFER: <small>Is there any objection to me</small></p> <p>16 receiving this?</p> <p>17 MS. WILCOX: No objection. But I would like the</p> <p>18 opportunity to respond after I've consulted.</p> <p>19 HEARING OFFICER SCHAEFER: Sure.</p> <p>20 (Employer MSO-1 received.)</p> <p>21 HEARING OFFICER SCHAEFER: <small>All right, just moving on.</small></p> <p>22 some other --</p> <p>23 MR. FRANK: I would ask the region because some of these</p> <p>24 certifications go back into the '80s or the '70s, it's my</p> <p>25 understanding that there was a separate certification for the</p>	<p>1 don't you put on the record your concerns with the way that the</p> <p>2 caption reads?</p> <p>3 MR. FRANK: The caption in the petition and the Board's</p> <p>4 initial notice wrongly suggests that the people in the</p> <p>5 prospective bargaining unit, that their employer is other than</p> <p>6 MSO of Kings County. MSO of Kings County, LLC, employs the</p> <p>7 individuals sought to be represented by the unit. It is the</p> <p>8 sole employer of those people.</p> <p>9 To the extent the Petitioner is writing in the caption of</p> <p>10 this case and the Board has adopted whatever the Petitioner</p> <p>11 says in the notices that were sent out, those are wrong because</p> <p>12 it does not properly identify the Employer.</p> <p>13 HEARING OFFICER SCHAEFER: <small>Okay. And just to repeat that</small></p> <p>14 Petitioner, the true and correct name of the Petitioner is 1199</p> <p>15 SEIU, United Healthcare Workers East, correct?</p> <p>16 MS. WILCOX: Yes.</p> <p>17 HEARING OFFICER SCHAEFER: <small>Thank you. And then we can move</small></p> <p>18 petitions pending in other regional offices involving other</p> <p>19 facilities of MSO or New York Methodist?</p> <p>20 MR. FRANK: <small>Not to my knowledge.</small> You might ask the Union,</p> <p>21 but not to our knowledge.</p> <p>22 HEARING OFFICER SCHAEFER: <small>I am following the parties' view.</small></p> <p>23 that prior to the close of hearing, I will solicit the parties'</p> <p>24 positions on types, dates, times and locations of the election,</p> <p>25 and the eligibility period including most recent payroll period</p>

Page 41	Page 43
<p>1 ending date and any applicable eligibility forms, but I will 2 not permit litigation on those issues. The hearing officer 3 will also inquire as to the need for foreign language ballots. 4 Please have the information available when I ask for it at the 5 end of the hearing. 6 I am also advising the parties that the hearing will 7 continue from day to day as necessary until completed unless 8 the regional director concludes extraordinary circumstances 9 warrants otherwise. 10 The parties are also advised -- we're going to deal with 11 the brief issue and I'm going to let you know after lunch. 12 MR. FRANK: What you just said, I may need to request and 13 adjournment of Thursday, if we need to go that far, because I'm 14 in a mandated federal court deposition that day. 15 HEARING OFFICER SCHAEFER: <small>Ok. Now we need the</small> 16 Employer has completed and I have marked for identification as 17 Board exhibit -- I'm sorry, MSO has completed and I have marked 18 for identification as Board Exhibit 3, a statement of position 19 in this matter. We've already done this so there are no 20 objections to receiving the statement of position with the 21 exception of the caveat that Ms. Wilcox made about service. 22 Now, Ms. Wilcox, what is -- 23 MR. FRANK: And Methodist also submitted a statement of 24 position. 25 HEARING OFFICER SCHAEFER: <small>And Methodist also took a</small></p>	<p>1 consent to joining in multi-employer bargaining which the 2 hospital is engaged in. The MSO also asserts that the 3 employees of an acute care hospital cannot be combined in a 4 single bargaining unit with employees of a non-acute care 5 hospital entity. Whether or not they're single employers or 6 joint employers, Board law is pretty clear on this topic that 7 an incumbent union may not represent a separate residual unit 8 where there is no community of interest between the MSO and the 9 acute care hospital. 10 The MSO and the hospital are not joint employer because 11 they do not share or co-determine those matters governing the 12 essential terms and conditions of employment. And I'm 13 referring to the standards set forth in Browning Ferris 14 Industries, 362 NLRB #186, at 15, which was a 2015 decision. 15 MSO is responsible for matters relating to the employment 16 relationship of its employees such as hiring, firing, 17 discipline, supervision, direction and controlling scheduling, 18 seniority, overtime, assigning work, and the manner and method 19 of work performance. 20 On this issue I think it is important to also point out 21 that the petition must be dismissed because the Board does not 22 include employees in the same unit if they do not have the same 23 employer absent employer consent. And I refer to the Lee 24 Hospital case which was at 300 NLRB 947, decided in 1990. 25 The hospital and the MSO do not consent to be included --</p>
Page 42	Page 44
<p>1 just realized as I was doing it that we had already gone 2 through this. So, yes, Methodist has also submitted it and I 3 have received as Board Exhibit4 the Methodist statement of 4 position. 5 Ms. Wilcox, what is your position with respect to the 6 issue raised by MSO and by Methodist in their statements of 7 position with respect to single employer and joint employer? I 8 know we've already done this, but we just need to get it on the 9 record. 10 MS. WILCOX: So the Employer as I understand it or MSO is 11 taking the position that they are the sole employer. It's 12 1199's position that MSO is not the sole employer if it is an 13 employer at all. We believe as previously stated on the record 14 that it is New York Methodist Hospital is an employer and that 15 MSO may in fact be a payroll service. And, alternatively, MSO 16 and Methodist Hospital are a single employer and they're 17 properly named in the petition. And, alternatively, that those 18 two entities are joint employers. So we believe that the 19 petition has correctly named both entities. 20 HEARING OFFICER SCHAEFER: <small>Just to clarify, well, Ms.</small> 21 Frank, what's your response to that? 22 MR. FRANK: The petitioned for residual unit, to use the 23 Union's term, is fatally flawed because MSO and the hospital 24 are separate corporate entities. One is a not for profit 25 entity. One is a for profit entity. And the MSO does not</p>	<p>1 let me rephrase, the MSO does not consent to being included in 2 the multi-employer bargaining unit that the hospital is 3 involved in. The hospital is a member of the League of 4 Voluntary Hospitals and they are bound by the league agreement. 5 MSO does not consent to be part of the League of Voluntary 6 Hospitals nor to be bound by that league agreement. 7 HEARING OFFICER SCHAEFER: <small>Would you like to get into the</small> 8 the unit issues, too, so just if you can confine this to the 9 joint employer/single employer. 10 MR. FRANK: Since the Union is taking these alternative 11 positions regarding the single employer/joint employer issue, 12 and it's starting to get to the community of interest issue, 13 but Board precedent mandates that there are separate units 14 between hospitals and service providers like MSO because that 15 prevents undue proliferation of units and it prevents a union 16 such as 1199 from representing employees at a non-acute care 17 site to obtain leverage over hospital operations and the 18 ability to use non-acute care issues to leverage bargain at the 19 acute care hospital. 20 To ensure the continued functioning of acute care 21 hospitals, the Board recognized the eight presumptively valid 22 units. In the non-acute care setting, the units focus on 23 whether employees share a community of interest at that 24 location. I think the record will show that One Prospect Park 25 West is a separate and distinct location from the hospital. I</p>

Page 45	Page 47
<p>1 think they're a mile and a third apart. Employees at One 2 Prospect Park West, and that's all employees, do not work with 3 hospital employees. They do not have interchange with hospital 4 employees. The hospital is located on 6th Street. There is no 5 community of interest. So whether or not this is single 6 employer, joint employer, or whatever theory the Union is going 7 to be using, it would be inappropriate to put the MSO employees 8 in the same bargaining unit as the hospital employees. 9 HEARING OFFICER SCHAEFER: _____ 10 of interest, can I get the Union's position on community of 11 interest? 12 MS. WILCOX: Yes. 13 HEARING OFFICER SCHAEFER: _____ 14 the classification appropriate in the unit and the professional 15 versus technical, so if you happen to touch on those, feel 16 free, or I'll guide you to each one. But communication I think 17 let's start with that. 18 MS. WILCOX: What we believe we can prove in this case is 19 that Methodist Hospital has created a delivery of services 20 which includes both servicing patients at its hospital and also 21 at other locations, one location being One Prospect Park West. 22 The hospital is operating/has operated, operates under an 23 Article 28 license that was required by New York State, for the 24 hospitals must have that in order to be able to provide health 25 care services, those services are being provided by the</p>	<p>1 They are also, when there are annual requirements about 2 safety that they have to go through, it's New York Methodist 3 Hospital that's communicating with them about their 4 requirements as to this is their time to have the upgraded 5 training that's required of them. If they have a problem, they 6 go to employee health. They deal with an HR human resources 7 person also as part of New York Methodist Hospital. 8 So in the eyes of -- the way in which New York Methodist 9 Hospital has treated and held itself out to the public, it has 10 held itself out as New York Methodist Hospital. MSO knows what 11 it's doing, but nobody else in the public would know who MSO 12 is. So we believe that given the fact, and there is nothing 13 that precludes the acute care hospital and a non-acute care 14 setting to have employees to be in separate bargaining units or 15 to be in the same bargaining unit. They can in fact be 16 represented by the same union. They can be represented and 17 they can be part of a multi-employer group. 18 The hospital created this -- the hospital created MSO. 19 Methodist Hospital is the only member of MSO. It's required to 20 report on its 990 forms that it files. It makes reference to, 21 it being the hospital, makes reference to it on its 22 consolidated financial statements that they're required to 23 file. So MSO is not just an entity that happens to be floating 24 from somewhere. This was created by New York Methodist 25 Hospital. They are the sole member and it's 100 percent</p>
Page 46	Page 48
<p>1 hospital and also at One Prospect Park West as under the same 2 Article 28 at One Prospect Park West. 3 If you were to walk down the street at One Prospect Park 4 West, the sign would say New York Methodist Hospital; the same 5 way when you're at 6th Street it says New York Methodist 6 Hospital. 7 The employees who are at One Prospect Park West, there are 8 1199 employees working in that very building who are covered 9 under the league agreement. They work in pediatrics and they 10 work in the Spine & Ankle Center -- Arthritis Center, excuse 11 me. 12 And so the employees, we believe because this is -- we 13 don't see this as being really an offsite location, that it's 14 really part of the hospital by virtue of how they have defined 15 how they're going to deliver services, as well as the fact that 16 for those centers in One Prospect Park West are operating under 17 the hospital's Article 28 license. 18 We disagree with the fact that the employees do not share 19 a community of interest with the hospital employees. In fact, 20 there is interaction between hospital employees as well as the 21 workers who are being petitioned for in this case. They are 22 hired by going to the hospital. They go through orientation at 23 the hospital. When they're going through orientation, they are 24 being spoken to by hospital personnel about the policies and 25 procedures that they are subject to.</p>	<p>1 Methodist Hospital. So to say that there is no relationship 2 between the two entities is not correct. 3 Now we have said that we believe this is -- we have set 4 forth our position there but we believe the facts will show 5 that there is a relationship between those two entities that 6 would be consistent with having these workers be covered by 7 treating both the hospital and MSO -- 8 HEARING OFFICER SCHAEFER: _____ 9 mentioned Article 28, what is that? 10 MS. WILCOX: That's a licensing by New York State that's 11 required by -- the Department of Health has to authorize health 12 care facilities, the hospitals, but we're talking about 13 hospitals here, to provide health care services. They specify 14 what services are provided and it's required. So that is part 15 of what those services -- 16 HEARING OFFICER SCHAEFER: _____ 17 MS. WILCOX: I don't know whether it's MSO that needs it 18 but the services that the hospital has at One Prospect Park 19 West, those are services that are -- that they -- 20 HEARING OFFICER SCHAEFER: _____ 21 MS. WILCOX: Yes. They have to be. They're covered by 22 that. I don't know what MSO is required to do. They are a 23 management service agent or organization that was established 24 only to provide administrative services at these different 25 practices.</p>

<p>Page 49</p> <p>1 HEARING OFFICER SCHAEFER: <small>You are concerned I will have</small></p> <p>2 Just for the record, I had to look it up yesterday, but for the</p> <p>3 reader of the record what's a 990 form?</p> <p>4 MS. WILCOX: It's my understanding that that's a form that</p> <p>5 not for profit organizations are required to file.</p> <p>6 HEARING OFFICER SCHAEFER: <small>You are concerned I will have</small></p> <p>7 MSO is a for profit organization then it would not file a 990</p> <p>8 form, correct?</p> <p>9 MS. WILCOX: I don't know. I'm not a tax lawyer, but my</p> <p>10 understanding is that they have to -- a not for profit has to</p> <p>11 provide information and there is a form where they are required</p> <p>12 to identify any organizations that they're affiliated with or</p> <p>13 related organizations. They can be other for profit</p> <p>14 organizations and they can also be corporations.</p> <p>15 HEARING OFFICER SCHAEFER: <small>For the question to clarify</small></p> <p>16 whether New York Methodist's 990 lists MSO as an affiliated</p> <p>17 organization. So when you're talking about the 990, that's</p> <p>18 what you're referring to?</p> <p>19 MS. WILCOX: I'm referring to New York Methodist</p> <p>20 Hospital's 990 form which incorporates their relationship with</p> <p>21 MSO and they are required to report that as part of their 990</p> <p>22 form. And attached to the 990 form are the consolidated</p> <p>23 financial statements for the hospital.</p> <p>24 HEARING OFFICER SCHAEFER: <small>Okay. We've gone through the</small></p> <p>25 classifications --</p>	<p>Page 51</p> <p>1 petition is creating a real undue proliferation of units.</p> <p>2 HEARING OFFICER SCHAEFER: <small>You are concerned I will have</small></p> <p>3 ask you a question.</p> <p>4 MR. FRANK: I know this is one case but they are seeking</p> <p>5 two residual units here, which the Board's regulations</p> <p>6 specifically prohibit. And I'm referring to the St. John's</p> <p>7 Hospital case.</p> <p>8 HEARING OFFICER SCHAEFER: <small>You are concerned I will have</small></p> <p>9 asking not to proliferate any more units, but just to include</p> <p>10 these employees in a larger unit which is the opposite of</p> <p>11 proliferation of units.</p> <p>12 MR. FRANK: I disagree.</p> <p>13 HEARING OFFICER SCHAEFER: <small>Explain.</small></p> <p>14 MR. FRANK: The Union is calling them residual unit and</p> <p>15 they're taking non-acute care -- employees of the non-acute</p> <p>16 care institution and they want to add them to an acute care</p> <p>17 hospital bargaining unit. And they want to do that two times.</p> <p>18 So now we're --</p> <p>19 HEARING OFFICER SCHAEFER: <small>You are concerned I will have</small></p> <p>20 the end result, correct me if I'm wrong, the end result</p> <p>21 everybody agrees is still one unit.</p> <p>22 MR. FRANK: But if you go back to St. John's Hospital and</p> <p>23 the Board's precedent, the Board says an incumbent unit cannot</p> <p>24 keep seeking residual units to add to their bargaining unit</p> <p>25 because that's an undue proliferation of units. If you follow</p>
<p>Page 50</p> <p>1 MR. FRANK: Can I respond because something Ms. Wilcox</p> <p>2 said --</p> <p>3 HEARING OFFICER SCHAEFER: <small>Sure, yes.</small></p> <p>4 MR. FRANK: I believe Ms. Wilcox said there was no</p> <p>5 prohibition about putting acute care and non-acute care</p> <p>6 entities together. And I think the Board has held otherwise.</p> <p>7 HEARING OFFICER SCHAEFER: <small>Just to reiterate your point --</small></p> <p>8 both position statement that New York Methodist filed and MSO</p> <p>9 filed, they cited a case --</p> <p>10 MR. FRANK: Hospital Corporation of America.</p> <p>11 HEARING OFFICER SCHAEFER: <small>Hospital Corporation of</small></p> <p>12 America, 17-RC-12076 for the opposite proposition.</p> <p>13 MR. FRANK: They're in a very long and comprehensive</p> <p>14 decision looking at the Board's units. The Board held that</p> <p>15 petitioning for a unit consisting of both acute care hospital</p> <p>16 employees and non-acute care MSO employees working at a</p> <p>17 separate location was inappropriate on its face because the</p> <p>18 Board has held that a single acute care hospital is a</p> <p>19 presumptively appropriate bargaining unit and will not be</p> <p>20 combined in a single bargaining unit with separate non-acute</p> <p>21 care entities.</p> <p>22 To the extent that the Petitioner has filed two separate</p> <p>23 residual petitions, I understand we're only dealing with one</p> <p>24 case now, but there is a second case where they are also</p> <p>25 seeking a second residual unit in what's called Urology. The</p>	<p>Page 52</p> <p>1 the Union's model, every day they could petition for another</p> <p>2 three people to add to the hospital unit. Is there no end to</p> <p>3 that?</p> <p>4 HEARING OFFICER SCHAEFER: <small>I understand your point.</small></p> <p>5 MR. FRANK: I mean every week could we be back here for</p> <p>6 three more people to add to the hospital unit? Now they want</p> <p>7 to amend the petition and they want to add foot care, which I</p> <p>8 don't know anything about.</p> <p>9 HEARING OFFICER SCHAEFER: <small>I think the argument would be</small></p> <p>10 -- I think the Union, well --</p> <p>11 MR. FRANK: No, no. We've got two different --</p> <p>12 HEARING OFFICER SCHAEFER: <small>With the argument made.</small></p> <p>13 if the Employer -- I understand your point.</p> <p>14 MR. FRANK: We're not consenting.</p> <p>15 HEARING OFFICER SCHAEFER: <small>I understand your point.</small></p> <p>16 think you have made it. And you can respond to it if you want.</p> <p>17 MS. WILCOX: I mean in the St. John's case, is he</p> <p>18 referring to 307 NLRB #120, I believe a 1992 case, I don't</p> <p>19 believe that case is dispositive of the facts in this</p> <p>20 particular case. I think the facts are totally different where</p> <p>21 there were multiple unions representing various groups of</p> <p>22 employees. Some are really small groups of workers. And this</p> <p>23 particular group there was a determination by the Board that</p> <p>24 there should be somewhat of a broader group of people, as</p> <p>25 opposed to being isolated to one small group of skilled</p>

<p style="text-align: right;">Page 53</p> <p>1 maintenance. So I think the facts are totally different. 2 And I just wanted to say that with respect to the Lee 3 Hospital case that as previously referenced, too, a 1990 case, 4 300 NLRB #131, I mean that case solely goes to the issue of a 5 joint employer. It has nothing -- that cannot be read to 6 reference to a single employer, because there is a single 7 employer. 8 HEARING OFFICER SCHAEFER: <small>Right, that's what I'm saying.</small> 9 alternative argument is that they are not single, so -- 10 MS. WILCOX: That's my alternative argument. But I want 11 to be clear that that does not apply to a single employer 12 theory. 13 HEARING OFFICER SCHAEFER: <small>All right.</small> 14 MR. FRANK: I'll add one cite that I think is important 15 since it's from the Supreme Court. 16 HEARING OFFICER SCHAEFER: <small>Okay, that's what I'm saying.</small> 17 MR. FRANK: Well, the Supreme Court in NLRB v. Baptist 18 Hospital did remind everybody that the unique nature of a 19 hospital setting requires the Board to avoid disruption of 20 patient care and disturbance of patients by comingling with 21 outside forces. And that's 442 US 773. It was a 1979 22 decision. 23 I would also refer to the Lorillard case, which is 24 219 NLRB 590, where under that Supreme Court guidance the Board 25 has held that where residual employees have differing</p>	<p style="text-align: right;">Page 55</p> <p>1 on whether -- 2 HEARING OFFICER SCHAEFER: Right. 3 MS. WILCOX: On how this issue -- how the facts are 4 presented. I mean I raised some of the factual assertions with 5 respect to the fact that these services are being provided by 6 the hospital and we believe can be included. An acute care 7 hospital can also provide non-acute care services as well as 8 providing acute care services. And so they don't have to be in 9 the same location or the same building as the hospital. 10 So we have to have a hearing. This is premature, as well 11 as just -- that this is any motion to dismiss the case where, 12 in fact, we are -- the Union should be given the opportunity to 13 create a record in this matter. 14 HEARING OFFICER SCHAEFER: Okay. 15 MR. FRANK: Can I respond? I thought the Board's new 16 procedures would try to resolve these issues without hearings. 17 I know if I try to raise the issue, I can't do that. 18 HEARING OFFICER SCHAEFER: <small>That's what I'm saying.</small> 19 case without hearing at least the evidence about single and 20 joint employers. 21 MR. FRANK: If I may? The issue I'm trying to raise is no 22 matter how that issue is resolved, the acute care versus 23 non-acute care issue precludes proceeding further with the 24 petition. It doesn't matter if a single -- 25 HEARING OFFICER SCHAEFER: <small>And the Board disagrees.</small></p>
<p style="text-align: right;">Page 54</p> <p>1 conditions of employment from unit employees, the Board refuses 2 to permit the incumbent union to put them into residual units. 3 I mean the Union is trying to undue a lot of history since 4 the 1974 amendments on that acute care hospitals are. And I 5 think existing Board precedent says the petitions should be 6 dismissed because on their face, whether or not it's joint 7 employer, single employer, or any one of the alternatives, the 8 Union I think is admitting that it's trying to put employees of 9 a non-acute care entity, the MSO, in the same bargaining unit 10 as an acute care hospital. The Board has prohibited that. 11 All the precedent -- 12 HEARING OFFICER SCHAEFER: <small>Right, that's what I'm saying.</small> 13 Union is arguing is that they're a single employer. And if 14 they are a single employer then the MSO is also an acute care 15 facility. Right? 16 MR. FRANK: No. Even if there was single employer, the 17 MSO is not an acute care hospital. It doesn't provide those 18 services. It is an organization that provides services to 19 physicians. It's not an acute care hospital. Even if it's a 20 single employer, you can't combine them. 21 HEARING OFFICER SCHAEFER: <small>Okay, that's your position.</small> 22 understand. 23 MS. WILCOX: Can I be heard? 24 HEARING OFFICER SCHAEFER: Sure. 25 MS. WILCOX: The fact is that you have to have a hearing</p>	<p style="text-align: right;">Page 56</p> <p>1 MR. FRANK: No, no. If you assume single employer -- 2 HEARING OFFICER SCHAEFER: <small>The Board disagrees with</small> 3 the statement that you're making that acute care or not -- I 4 understand the case law that you cited. I read the case last 5 night. I understand your position. 6 MR. FRANK: If you agreed with me -- 7 HEARING OFFICER SCHAEFER: <small>And I'm not the Board.</small> 8 whether to dismiss the petition. But based on the fact that we 9 discussed this previously, I understand your position. 10 MR. FRANK: I was only trying to save the Board a hearing 11 because if you agreed with our view that you can't combine 12 separate locations, non-acute with a hospital, then you don't 13 have to decide the single employer/joint employer issues. 14 That's all. 15 HEARING OFFICER SCHAEFER: <small>That's what I'm saying.</small> 16 record will, if they believe that's the shortcut to take, may 17 take it. But I'm not the person that makes that decision. The 18 RD is. And I think that when we -- the point is we need a 19 hearing and someone needs to write a position as to your 20 position. So I understand it. 21 Look, I understand the position the Employer is taking. 22 We're going to have a hearing. That's what's been ruled. So I 23 understand your position and so does the RD. It's your 24 position and we want to hear the fact. 25 All right, so the following issues will be litigated in</p>

<p>Page 57</p> <p>1 this case as I've already said, single employer and joint 2 employer, the unit issues including special attention on 3 community of interest, the classifications -- whether the 4 classifications are appropriate, can be appropriately included 5 in a larger unit, and whether it's appropriate to include them 6 in the same unit. And then obviously the professional versus 7 technical employees issue, as well as the technical and 8 clerical issues with the certs. 9 I think I went over the issues that were not going to be 10 litigated, but just to clarify the issue with service, the 11 Board -- the rulemaking concerns. When I said service, I meant 12 the name issue, just to clarify, Mr. Frank, like the issue with 13 the name on the petition, the rulemaking issue, those things 14 should be dealt with on the request for review. 15 MR. FRANK: Are those issues preserved for all purposes 16 then? 17 HEARING OFFICER SCHAEFER: <small>Yes. They're not going to</small> 18 be -- 19 MR. FRANK: In other words, my offer of proof is the name 20 issue is highly prejudicial and I would build a record saying 21 that it is inherently improper for the Board to tell employees 22 who might be involved in election proceedings that some entity 23 other than their employer is the employer and to require 24 posting of it. I think that violates the -- courts have 25 already decided that employers cannot be required to post</p>	<p>Page 59</p> <p>1 joint employer issue, just be aware that the burden of proof 2 rests with the party asserting it and that burden lies with the 3 party seeking -- I'm just going to read what this says. 4 Please be aware that because single and joint employer 5 involves a presumption under Board law, the burden lies with 6 the party seeking to rebut the presumption and must present 7 specific detailed evidence as part of your position. General 8 conclusory statements by witnesses will not be sufficient. 9 Let's deal with the subpoena issue just quickly so that we 10 can -- 11 MR. FRANK: I would request that be in a separate record. 12 HEARING OFFICER SCHAEFER: <small>Well, that goes back to the</small> 13 it here. And then if necessary we open a subpoena record. So 14 I can take care -- 15 MR. FRANK: I'm still requesting a separate record on the 16 subpoena issue. 17 HEARING OFFICER SCHAEFER: <small>Okay. So what does the court</small> 18 it. You filed -- you have to make an offer of proof first and 19 then the regional director decides whether it will be in a 20 separate record. Who filed it? I haven't looked at it. I got 21 an email about it and I haven't had a chance to open it. So do 22 you have who filed the petitions to revoke? Is it both 23 entities? 24 MR. FRANK: Both entities. MSO of Kings County filed a 25 petition. I believe we filed four petitions to quash subpoenas</p>
<p>Page 58</p> <p>1 things that aren't true. Employers don't have to post things 2 that they don't believe in. And here the Board is saying to 3 the Employer, notwithstanding the DC Circuit's decision, that 4 you have to post a notice that misidentifies the Employer. 5 HEARING OFFICER SCHAEFER: <small>I think that issue should be</small> 6 raised in the request for review. It won't be litigated here. 7 MR. FRANK: But there's nothing to review. 8 HEARING OFFICER SCHAEFER: <small>And you're making your point</small> 9 MR. FRANK: What is being reviewed? It's not part of the 10 hearing record. I never got a chance to do a hearing. I 11 raised the issue with the regional director and he said I'm not 12 going to deal with the issue. There's nothing to appeal 13 because it wasn't made part of a hearing. I wasn't given an 14 opportunity to raise the issue. Now you're to giving me an 15 opportunity here to raise the issue. 16 HEARING OFFICER SCHAEFER: Okay. 17 MR. FRANK: And that is why the Employer MSO is saying 18 that the Board's rules deprive us of our constitutional rights 19 to raise issues. It also violates the Administrative Procedure 20 Act and the National Labor Relations Act because we're 21 certainly entitled to at least one forum to raise the issue. 22 And you're saying there is no hearing possible. There is no 23 way to present a factual record. We think that is highly 24 prejudicial and reversible error. 25 HEARING OFFICER SCHAEFER: <small>In terms of the single and</small></p>	<p>Page 60</p> <p>1 which were served improperly by the Union prior to the 2 determination of any issues for hearing. MSO of Kings County 3 filed -- 4 HEARING OFFICER SCHAEFER: <small>How many they served</small> 5 improperly? 6 MR. FRANK: They were not personally served. The 7 Methodist Hospital filed two petitions. 8 HEARING OFFICER SCHAEFER: <small>How many they served?</small> 9 MR. FRANK: I think they were just dropped off. You'll 10 have to ask the Union. I don't know that. I mean I know 11 yesterday the Union left some subpoenas for employees. I don't 12 know how the Union served them, but I mean they were dropped 13 off. 14 HEARING OFFICER SCHAEFER: <small>Well, you're making a record</small> 15 an issue so I need to know what is the specific argument you're 16 making about why service was inappropriate. 17 MR. FRANK: There were two subpoena issues here. The 18 other two were for the other case. When I said there were 19 four, it's for the Urology case. In this case, MSO and 20 Methodist Hospital each moved to quash subpoenas. The MSO was 21 never served with the subpoena. I think the Union left one at 22 the hospital, but I'm not exactly sure. MSO was never 23 personally served with the subpoena at its location. 24 HEARING OFFICER SCHAEFER: <small>Is that what you're asking for?</small> 25 York Methodist, at New York Methodist facilities? Is that what</p>

Page 61

1 you're -- when you say at the hospital, I just want to clarify.
2 MR. FRANK: I believe documents were left with some
3 person. I don't think that was good service.
4 HEARING OFFICER SCHAEFER: Who was the person?
5 MR. FRANK: I don't know. The subpoena that the Union
6 served is multiple paragraphs requesting information when there
7 were no issues to be determined for hearing. They're
8 inherently burdensome and inconsistent with the Board's rules
9 for expedited hearings.
10 HEARING OFFICER SCHAEFER: How?
11 MR. FRANK: They're just asking for all kinds of
12 information when there is no determination of what the issues
13 were for hearing.
14 HEARING OFFICER SCHAEFER: How can that be --
15 MR. FRANK: It's a fishing trip.
16 HEARING OFFICER SCHAEFER: How can that be burdensome?
17 with the Board's -- the new rules, if the Board's new rules set
18 forth the procedure whereby the issues are determined the day
19 before a hearing.
20 MR. FRANK: The subpoenas were served before those
21 determinations were made asking for all kinds of information
22 that have nothing to do with the issues before us.
23 HEARING OFFICER SCHAEFER: Is it a poor practice that it
24 would be appropriate if you were served at 12:31 or at
25 2 o'clock after the positions were made?

Page 62

1 MR. FRANK: Well, if they were relevant to the issues
2 before the hearing officer that would be a different issue.
3 HEARING OFFICER SCHAEFER: All right, hearing ends that
4 question, what's the -- you're saying they're unduly
5 burdensome?
6 MR. FRANK: Yes.
7 HEARING OFFICER SCHAEFER: What do they request? Do you
8 have copies that we can put in the record?
9 MR. FRANK: Well, we want them in a separate record.
10 HEARING OFFICER SCHAEFER: Can I look at them?
11 MR. FRANK: I would ask that they be put into a separate
12 record.
13 HEARING OFFICER SCHAEFER: I understand what you're
14 asking. I can't order the opening of a new record. Our
15 regional director has to do that. So just for the purposes
16 of --
17 (Pause.)
18 MR. FRANK: I believe that in Section 102.66, it is
19 provided that the petition to revoke a subpoena shall not
20 become part of the record except upon request of the party
21 aggrieved, which we're not making the request. I think the
22 Board's rule says these shall not be part of the record.
23 HEARING OFFICER SCHAEFER: I understand what you're
24 saying. Thank you for quoting the rules. Can I look at the
25 petitions so that I can understand what you're saying? And I

Page 63

1 will not put them in the record at this time. I am the person
2 that would be opening the subpoena record. They were emailed
3 to me this morning. I'm just asking if you have a copy handy.
4 MR. FRANK: Yes, I do.
5 HEARING OFFICER SCHAEFER: Thank you. When you produce?
6 the documents that you will produce?
7 MR. FRANK: No.
8 HEARING OFFICER SCHAEFER: Why not?
9 MR. FRANK: I don't know what the issues are.
10 MS. WILCOX: Could I just state for the record that first
11 of all coming here today is my first time hearing that there
12 was any objection to the subpoenas. There was nothing served
13 upon me with regard to any petition to quash subpoenas. This
14 case was -- I have just checked my email to see whether
15 something was sent in last night or early this morning. I have
16 not received it. And I don't have problems receiving emails,
17 so I don't know why there is a problem.
18 MR. FRANK: Ms. Wilcox, I believe we served them on you by
19 email.
20 MS. WILCOX: Okay. Well, I have yet to receive an email
21 from your firm with regard to the documents you're making
22 reference to, so I don't know what the problem is. And with
23 respect to the issues here, it was made very clear when the
24 Union filed the initial petitions in the prior matter that the
25 Employer was taking the position that MSO of Kings County, LLC,

Page 64

1 was the sole employer in this matter. So based upon that
2 information, the Union then, when the petition was refiled,
3 requested subpoenas, and issued subpoenas, and served subpoenas
4 requesting documents that we believe are relevant to show the
5 relationship between MSO and New York Methodist Hospital.
6 Those subpoenas request information we believe is relevant to
7 the requirements of showing what is the relationship between
8 those parties for purposes of proceeding with the petitions in
9 both of these matters.
10 So for counsel to say we have no idea what the issues are
11 in this matter, and I would further note that the statement of
12 position that the Employer -- statement of positions of the
13 Employer was submitted in the prior two proceedings are
14 virtually identical to the statement of positions that were
15 filed yesterday in the proceedings that are going forth today.
16 HEARING OFFICER SCHAEFER: Now, I'd like to see you
17 out that I told the Employer -- to sit here right now and say
18 that you don't know what the issues are now I think is a
19 little --
20 MR. FRANK: Excuse me. The Union has not stated their
21 position on the record in response to the Employer's position
22 to this date.
23 HEARING OFFICER SCHAEFER: We just did it for --
24 MR. FRANK: Prior to just now, the Employer did not know
25 the Union's position.

1

1 HEARING OFFICER SCHAEFER: He is saying -- that's not what
2 you said. Three minutes ago you said you don't know what the
3 issues are and I think that's inaccurate. The record will
4 reflect the issue -- we've spent all morning explaining what
5 the issues are. You are aware of what the issues are in this
6 hearing.

7 MR. FRANK: We served the motion to quash yesterday.

8 HEARING OFFICER SCHAEFER: I understood that. To the
9 extent now that I am asking you why documents that you agree --
10 there's a whole section of this petition that indicates you
11 recognize there are documents that you will produce or that are
12 relevant. And so my question is why haven't at least those
13 documents been turned over. And your response was you don't
14 know what the issues are.

15 MR. FRANK: And I am asking for this to be in a separate
16 record and we'll have appropriate -- we'll review the whole
17 issue.

18 HEARING OFFICER SCHAEFER: That is your position -- for
19 asking for an offer of proof as to your position as to whether
20 the entire petition is your request to be revoked or are there
21 documents that you acknowledge are relevant in this matter that
22 you have not turned over?

23 MR. FRANK: I would like this in a separate record. I
24 don't believe this belongs in the Board's hearing record on the
25 issues on representation.

1 HEARING OFFICER SCHAEFER: Okay.

2 MR. FRANK: Unless you say the Board rules don't apply in
3 Board hearings, okay, but I thought they did.

4 HEARING OFFICER SCHAEFER: I don't think I -- all right.
5 we're going to break for lunch. It's 1:15. We're coming back
6 at 2:15. Please be on time. Let's go off the record.
7 (Whereupon at 1:14 p.m., the above-entitled matter
8 adjourned.)

9

	34:12	10:1	35:21;43:3,9;44:19; 20:47:13;50:5,15,18; 51:16;54:4,10,14,17, 19;55:6,8,22;56:3	54:7
#	2	6		always (1) 6:16
#120 (1) 52:18	2 (6) 11:6,7;12:1,5; 28:19;61:25	6th (2) 45:4;46:5	add (11) 14:18,21;32:19,20; 33:3;51:16,24;52:2,6, 7;53:14	amend (2) 17:24;52:7
#131 (1) 53:4	2:15 (1) 66:6	7		amending (5) 23:4;24:17;25:18, 21,22
#186 (1) 43:14	2010 (2) 36:18,25	70s (1) 38:24	additional (2) 5:14;33:9	amendment (1) 25:9
1	2014 (1) 34:12	773 (1) 53:21	address (3) 18:12;28:7,10	amendments (1) 54:4
1 (7) 7:16,18;8:23;9:9, 24;14:6;38:4	2015 (1) 43:14	8	adjourned (1) 66:8	America (2) 50:10,12
1:14 (1) 66:7	219 (1) 53:24	80 (1) 5:22	adjournment (2) 9:1;41:13	among (4) 11:8;12:9;27:11; 29:18
1:15 (1) 66:5	23rd (1) 8:9	80s (1) 38:24	administrative (3) 37:5;48:24;58:19	Anderson (1) 7:11
100 (1) 47:25	250 (1) 6:11	9	admitting (1) 54:8	Ankle (4) 24:18,21,22;46:10
10011 (1) 5:23	28 (4) 45:23;46:2,17;48:9	947 (1) 43:24	adopted (2) 32:22;40:10	annual (1) 47:1
102.66 (1) 62:18	29-RC-11967 (2) 36:16;37:2	990 (9) 47:20;49:1,3,7,16, 17,20,21,22	advised (2) 24:9;41:10	anticipate (1) 16:13
11:26 (1) 5:2	29-RC-17329 (1) 5:6	A	advising (1) 41:6	apart (1) 45:1
1199 (22) 6:1;12:16,23;13:8; 14:6,21;15:6,12,14, 20,21;16:11;18:25; 19:11;20:20;22:19; 27:5;35:2;36:17; 40:14;44:16;46:8	29th (1) 9:25		affiliated (2) 49:12,16	apologize (1) 27:14
1199's (3) 15:5;34:14;42:12	3	ability (1) 44:18	Again (4) 9:5,20;10:8;33:4	appeal (1) 58:12
12:31 (1) 61:24	3 (4) 27:15,16;28:19; 41:18	able (1) 45:24	agent (1) 48:23	appearance (1) 6:16
15 (1) 43:14	30 (1) 13:21	above-entitled (1) 66:7	aggrieved (1) 62:21	appearances (2) 5:16;6:12
172398 (3) 5:6;23:6;28:16	300 (2) 43:24;53:4	above-named (1) 36:19	ago (1) 65:2	appearing (1) 5:10
172410 (1) 5:8	307 (1) 52:18	Absent (2) 14:16;43:23	agree (8) 13:3,7,23;19:10; 30:5,17;33:14;65:9	appended (1) 27:4
173298 (1) 28:17	31st (6) 7:24;8:2,6,15;9:1; 10:1	Absolutely (1) 36:14	agreed (2) 56:6,11	applicable (1) 41:1
17-RC-12076 (1) 50:12	3298 (1) 28:18	accepting (1) 27:19	agreeing (1) 17:24	applies (1) 14:7
1974 (1) 54:4	362 (1) 43:14	According (2) 8:8;27:24	agreement (15) 12:22;13:8,10,13; 14:5,7,14,15;16:16; 30:12,13;34:21;44:4, 6;46:9	apply (2) 53:11;66:2
1979 (1) 53:21	4	accurate (2) 14:1,17	agrees (1) 51:21	appropriate (17) 21:8,16,23;22:21; 31:21,25;32:2,12; 33:5,25;36:8;45:14; 50:19;57:4,5;61:24; 65:16
1990 (2) 43:24;53:3	4 (1) 27:17	accuse (2) 20:7,9	ahead (1) 20:23	appropriately (1) 57:4
1992 (1) 52:18	40 (1) 13:21	acknowledge (1) 65:21	Aleksandr (1) 5:24	appropriateness (2) 17:1;22:22
1a (1) 6:25	442 (1) 53:21	Act (5) 11:9,14;15:10; 58:20,20	allow (1) 32:23	approved (1) 7:20
1c (1) 10:2	5	active (1) 22:12	alone (1) 19:13	April (1) 10:1
1e (2) 7:2;8:24	590 (1) 53:24	actually (3) 9:4;17:17;24:20	alternative (3) 44:10;53:9,10	arguing (1) 54:13
1-RC-134298 (1)	5th (1)	acute (26) 11:17;31:3,16; 32:7,22;33:19,20;	alternatively (2) 42:15,17	argument (6) 30:23;35:21;52:9;
			alternatives (1)	

53:9,10;60:15 around (1) 29:3 arrangements (1) 36:3 Arthritis (1) 46:10 Article (4) 45:23;46:2,17;48:9 aside (3) 17:4;19:8;62:3 asserting (1) 59:2 assertions (1) 55:4 asserts (1) 43:2 assessment (1) 22:25 assigning (1) 43:18 assistant (14) 18:3,4;23:24,24; 24:3,3,5;25:11,11; 29:25;30:3,7,20,20 assistants (4) 17:20,21;24:20; 31:1 Association (1) 15:2 assume (1) 56:1 assuming (1) 32:10 assumption (1) 35:23 attached (1) 49:22 Attachment (5) 28:20;29:10,19,23; 30:21 attention (1) 57:2 authorize (1) 48:11 available (1) 41:4 Avenue (2) 5:23;6:11 avoid (1) 53:19 aware (4) 10:23;59:1,4;65:5	27:18,21 back (5) 10:13;38:24;51:22; 52:5;66:5 ballots (1) 41:3 Baptist (1) 53:17 bargain (2) 36:18;44:18 bargaining (26) 12:8,22;13:8,10; 14:4,5,14;16:12; 31:25;32:2,8,18; 34:21;36:20;40:5; 43:1,4;44:2;45:8; 47:14,15;50:19,20; 51:17,24;54:9 Barry (2) 11:22;28:15 based (6) 22:21;33:13;34:24; 36:9;56:8;64:1 Becker (4) 6:4,4,5,10 become (3) 18:25;19:21;62:20 becoming (1) 20:18 belief (1) 22:12 believes (2) 22:4,6 belongs (1) 65:24 best (2) 39:4,8 better (1) 22:25 Board (67) 5:9,11,12;6:25;7:6; 10:20;8:1,1,4,5,23; 9:24;11:6,6;12:1,4; 13:20;14:8,9;18:16; 21:8,16;22:20;23:10; 27:13,15,16;31:8; 32:22;34:15,24,25; 36:1,4,17,25;38:4,11, 12,12;39:12;40:10; 41:17,18;42:3;43:6, 21;44:13,21;50:6,14, 18;51:23;52:23; 53:19,24;54:1,5,10; 56:10;57:11,21;58:2; 59:5;66:2,3 Board's (21) 7:2;8:24;9:9; 11:15;12:6;27:18,21, 24;31:16;32:7;40:3; 50:14;51:5,23;55:15; 58:18;61:8,17,17; 62:22;65:24 both (17)	21:13,17;22:9,23; 27:7;31:2;35:16; 36:6;42:19;45:20; 48:7;50:8,15;59:22, 24;60:24;64:9 bound (2) 44:4,6 break (2) 16:17;66:5 brief (1) 41:11 bring (2) 18:18;19:19 bringing (1) 16:21 broader (1) 52:24 Browning (1) 43:13 build (1) 57:20 building (2) 46:8;55:9 burden (3) 59:1,2,5 burdensome (2) 61:8;62:5	45:25;47:13,13; 48:12,13;50:5,5,15, 16,18,21;51:15,16, 16;52:7;53:20;54:4, 9,10,14,17,19;55:6,7, 8,22,23;56:3;59:14 Case (41) 5:6,9;7:14;23:6; 24:6;33:5;34:9,9,10; 35:25;36:15;37:1; 39:6,16,24;40:10; 43:24;45:18;46:21; 50:9,24,24;51:4,7; 52:17,18,19,20;53:3, 3,4,23;55:11,19;56:4, 4;57:1;60:18,19,19; 63:14 cases (1) 5:14 categories (3) 19:2;35:7;36:19 caveat (1) 41:21 CBA (1) 34:22 Center (10) 17:4;23:20;24:8, 18,21,22;25:8,13; 46:10,10 centers (1) 46:16 certain (1) 12:17 certainly (2) 19:22;58:21 certification (5) 5:13;36:25;37:11; 38:12,25 certifications (4) 13:20;34:24;35:1; 38:24 certified (9) 13:15;14:2,8,10; 17:21;18:5;23:25; 36:17,22 certs (3) 37:3,7;57:8 chance (2) 58:10;59:21 changes (1) 19:11 checked (1) 63:14 choosing (1) 33:8 Circuit's (1) 58:3 circumstances (2) 36:5;41:8 cite (2) 34:11;53:14 cited (2) 50:9;56:4	claim (1) 6:19 claiming (1) 16:2 clarify (10) 15:3,5;17:23; 23:22;26:4;42:20; 48:8;57:10,12;61:1 classification (3) 26:4;35:6;45:14 classifications (13) 13:18;16:15;23:16, 17;24:6;25:13;27:9; 29:11,19,24;49:25; 57:3,4 clear (8) 10:16;11:11;12:7; 17:20;34:8;43:6; 53:11;63:23 clearly (1) 20:16 clerical (24) 13:1,25;18:4; 23:24;24:3;30:2,3; 31:7,9,10,13,16,20; 32:5,13,14;34:19,19; 35:4,22,24;36:7; 39:1;57:8 clinical (14) 17:20;24:2,4,20; 25:11;26:7,9,11,14; 29:15;30:7,18,20; 31:1 close (1) 40:23 closed (1) 9:7 co-determine (1) 43:11 collective (8) 12:8,22;13:7,10; 14:4,5,14;34:21 combine (2) 54:20;56:11 combined (3) 13:24;43:3;50:20 coming (2) 63:11;66:5 comingling (1) 53:20 comment (1) 8:13 commerce (3) 11:10,11,13 communicating (1) 47:3 communication (2) 7:22;45:16 community (12) 32:1;33:23;34:2,5; 43:8;44:12,23;45:5,9, 10;46:19;57:3 completed (3)
B		C		
B-1a (2) 7:2;8:24 B-2 (2) 11:15;12:6 B-3 (2) 27:18,21 B-4 (2)		call (2) 20:4,11 called (3) 20:6;34:10;50:25 calling (2) 20:3;51:14 calls (1) 20:2 can (47) 5:19;6:16;7:9; 9:23;10:10,13;11:21; 15:9;16:19;21:9; 22:2,25;26:21;27:2; 29:24;34:23;36:5,13; 37:1,4,5,13;39:4,6; 44:8;45:10,18;47:15, 16,17;49:13,14;50:1; 52:16;54:23;55:6,7, 15;57:4;59:10,14; 61:14,16;62:8,10,24, 25 caption (5) 39:15,24;40:2,3,9 card (1) 5:18 care (61) 11:17;17:4,7,18; 24:8,21;25:12,16,17, 25;26:2;27:3,11; 29:13;31:3,16,25; 32:7,22;33:19,20,21; 35:17,21;43:3,4,9; 44:16,18,19,20,22;		

41:7,16,17 comprehensive (1) 50:13 concede (2) 29:7;31:21 concedes (1) 29:6 concern (2) 31:22;39:13 concerns (2) 40:1;57:11 concludes (1) 41:8 conclusory (1) 59:8 conditions (3) 14:15;43:12;54:1 confine (1) 44:8 confusion (1) 33:1 consent (7) 21:21;34:4;43:1, 23,25;44:1,5 consented (1) 32:10 consenting (1) 52:14 consistent (1) 48:6 consisting (1) 50:15 consolidated (2) 47:22;49:22 constitute (1) 8:11 constitutional (1) 58:18 consulted (1) 38:18 contains (2) 7:17;11:7 contention (1) 15:5 Continue (2) 24:14;41:7 continued (1) 44:20 contract (5) 12:9,10,12,13; 20:20 contractual (1) 12:15 controlling (1) 43:17 conversation (2) 17:2;24:12 copies (4) 5:14;29:20;37:20; 62:8 copy (11) 7:9,13;9:7;27:24, 25;28:3,8,12;37:13,	16;63:3 corporate (1) 42:24 corporation (3) 11:19;50:10,11 corporations (1) 49:14 correction (1) 24:2 correctly (1) 42:19 counsel (4) 5:16;24:10,16; 64:10 County (12) 5:6;6:3;7:5;11:18; 20:13;22:10;39:22; 40:6,6;59:24;60:2; 63:25 court (6) 5:21;10:14;41:14; 53:15,17,24 courts (1) 57:24 cover (2) 13:11;24:25 covered (8) 14:14;16:16;20:20; 36:4;46:8;48:6,20,21 covering (4) 12:10,13,17;13:2 create (2) 18:20;55:13 created (4) 45:19;47:18,18,24 creating (1) 51:1 currently (1) 22:7	dealt (4) 29:12;30:19,19; 57:14 December (1) 36:18 decertification (1) 5:13 decide (1) 56:13 decided (2) 43:24;57:25 decides (1) 59:19 decision (7) 21:16;43:14;50:14; 53:22;56:7,17;58:3 deems (3) 21:8,16;22:20 defined (2) 36:2;46:14 delete (1) 23:5 deliver (1) 46:15 delivery (1) 45:19 Department (1) 48:11 deposition (1) 41:14 deprive (1) 58:18 description (4) 5:13;17:24;26:10, 23 detailed (1) 59:7 determination (3) 52:23;60:2;61:12 determinations (1) 61:21 determined (2) 61:7,18 different (11) 14:10;21:23;31:8; 32:6;34:22,24;48:24; 52:11,20;53:1;62:2 differing (1) 53:25 direct (1) 19:4 direction (1) 43:17 directly (1) 27:24 director (6) 10:22;25:1;41:8; 58:11;59:19;62:15 disagree (2) 46:18;51:12 disagrees (2) 55:25;56:2 discipline (1)	43:17 discussed (3) 22:5;45:9;56:9 discussion (1) 21:7 discussions (1) 24:9 dismiss (3) 55:11,18;56:8 dismissed (2) 43:21;54:6 dispositive (1) 52:19 disruption (1) 53:19 distinct (1) 44:25 distinctions (1) 35:21 disturbance (1) 53:20 document (7) 5:15;9:2;10:18; 11:6;18:13;36:15; 37:22 documents (13) 8:1;22:23,25; 27:23;39:16;61:2; 63:6,21;64:4;65:9,11, 13,21 don't (3) 9:7;16:9;58:1 Donald (2) 6:4,10 done (3) 10:13;41:19;42:8 down (3) 5:19;16:17;46:3 drafted (1) 23:23 dropped (2) 60:9,12	election (11) 21:8,25;22:20; 31:19;32:20,21;33:4, 7,24;40:24;57:22 elections (1) 32:12 eligibility (2) 40:25;41:1 else (2) 20:5;47:11 email (7) 28:4,6,8;59:21; 63:14,19,20 emailed (1) 63:2 emails (1) 63:16 employed (6) 13:14;18:1;19:7; 23:19;26:24;37:10 employee (3) 27:11;36:20;47:6 employees (99) 12:11,14,17,18; 13:1,14;14:1;15:10, 17,19,22;16:3,20,23; 17:6,10,19;18:1,18; 19:1,2,7,19;21:1; 22:6;23:5,8,12,13,14, 19,21,21;24:20; 26:24;27:4;28:21,22; 30:22;31:2,4,7,7,9, 11,12,20,20,24;32:1, 3,5,6,11;33:7,17,17, 18,20;34:5;35:5,11, 14,16,18,19,24;36:7, 18;43:3,4,16,22; 44:16,23;45:1,2,3,4, 7,8;46:7,8,12,18,19, 20;47:14;50:16,16; 51:10,15;52:22; 53:25;54:1,8;57:7, 21;60:11 Employer (89) 6:2,7;7:17;8:17; 9:6;10:6,17;11:2,10, 11,12;19:5,5,8;20:13; 21:18,23,25;22:1,5,6, 9,12,14;23:7,11; 27:14;28:24;29:1,4,7, 8;31:21;32:4;34:17, 23;38:6,14,20;39:14, 25;40:5,8,12,41;16; 42:7,7,10,11,12,13, 14,16;43:10,23,23; 44:9,11;45:6,6; 52:13;53:5,6,7,11; 54:7,7,13,14,16,20; 56:1,13,21;57:1,2,23, 23;58:3,4,17;59:1,4; 63:25;64:1,12,13,17, 24 employer/joint (2)
	D		E	
	dancing (1) 29:3 Daniel (2) 6:5,10 date (2) 41:1;64:22 dated (2) 8:2;9:25 dates (1) 40:24 day (5) 41:7,7,14;52:1; 61:18 DC (1) 58:3 deal (8) 5:7;8:22;11:3; 28:20;41:10;47:6; 58:12;59:9 dealing (2) 29:9;50:23		early (1) 63:15 easier (1) 39:7 East (1) 40:15 effect (2) 24:17;34:21 effective (1) 13:13 effectively (2) 14:9;34:24 eight (3) 31:8;36:2;44:21 Eighth (1) 5:22 either (2) 7:23;16:6	

44:11;56:13 employer/single (1) 44:9 employers (14) 10:23;11:14;21:24; 22:16,17,21;31:23; 34:16;42:18;43:5,6; 55:20;57:25;58:1 Employer's (11) 8:20,25;18:9;27:8, 10,13;28:20;29:25; 32:10;35:21;64:21 employment (4) 14:15;43:12,15; 54:1 employs (1) 40:6 end (5) 41:5;51:19,20,20; 52:2 ending (1) 41:1 engaged (4) 11:10,11,13;43:2 ensure (1) 44:20 enter (1) 33:8 entered (1) 36:3 entire (1) 65:20 entities (11) 11:13;26:25;42:18, 19,24;48:2,5;50:6,21; 59:23,24 entitled (2) 35:15;58:21 entity (8) 10:17;24:24;42:25, 25;43:5;47:23;54:9; 57:22 Epstein (4) 6:4,4,5,10 Erin (1) 5:11 error (1) 58:24 essential (1) 43:12 establish (1) 23:1 established (1) 48:23 even (3) 20:12;54:16,19 everybody (3) 34:9;51:21;53:18 everyone (1) 29:20 evidence (7) 8:23;12:5;16:15, 17;27:19;55:19;59:7	exactly (2) 12:20;60:22 example (1) 29:20 except (3) 9:21;27:23;62:20 exception (1) 41:21 excluded (5) 26:11,11;30:22; 31:11,12 exclusion (2) 14:16;30:24 excuse (2) 46:10;64:20 executed (1) 11:5 Exhibit (25) 6:25;7:4,6,8,10,16, 18,21;8:23;9:9,24; 10:17;11:6,7,7;12:1, 5;27:14,16,17;37:17, 18;38:12;41:17,18 Exhibit4 (1) 42:3 existing (3) 27:1;36:19;54:5 exists (2) 18:19;21:2 expectations (1) 35:8 expedited (1) 61:9 explain (6) 8:21;13:6;18:14; 30:24;39:13;51:13 explaining (1) 65:4 extent (5) 31:9;39:23;40:9; 50:22;65:9 extraordinary (1) 41:8 eyes (1) 47:8	16:1;55:4;58:23 fall (2) 14:10;19:2 far (2) 18:17;41:13 fatally (1) 42:23 federal (1) 41:14 feel (1) 45:15 Felstiner (2) 5:24,24 Ferris (1) 43:13 few (1) 11:3 file (3) 47:23;49:5,7 filed (15) 7:19;11:3;22:11; 50:8,9,22;59:18,20, 22,24,25;60:3,7; 63:24;64:15 files (3) 39:6,8;47:20 financial (2) 47:22;49:23 find (2) 34:15;39:5 finish (1) 37:6 firing (1) 43:16 firm (1) 63:21 first (4) 59:12,18;63:10,11 fishing (1) 61:15 five (1) 31:25 flawed (1) 42:23 floating (1) 47:23 focus (1) 44:22 follow (1) 51:25 following (1) 56:25 Foot (4) 24:18,21,22;52:7 forces (1) 53:21 foreign (1) 41:3 form (8) 49:1,3,4,8,11,20, 22,22 formal (7) 5:4,12;6:24;9:16,	19;10:12,12 former (1) 9:6 forms (2) 41:1;47:20 forth (4) 43:13;48:4;61:18; 64:15 forum (1) 58:21 forward (1) 36:5 four (2) 59:25;60:19 FRANK (156) 6:3,3,9,9;7:9,14,16; 8:2,5,12,15;9:11,15; 10:16;11:16,23;12:3, 20;13:3,5,7,12,19,24; 14:5,12,16,21,24; 15:2,9,14,18,24;16:1, 8,19,23;17:6,10; 19:14,19;20:1,9,11; 21:11,18,22;23:3,4; 24:11,23;25:3,7,21; 26:1,8,14,21,23;28:2, 10,17,23;29:1,4;30:2, 8,15,24;31:1,7,24; 32:15,17;33:13,16, 23;34:4,9,12;36:13, 15,22;37:2,9,13,17, 23;38:4,8,11,23;39:3, 8,13,18,22;40:3,20; 41:12,23;42:21,22; 44:10;50:1,4,10,13; 51:4,12,14,22;52:5, 11,14;53:14,17; 54:16;55:15,21;56:1, 6,10;57:12,15,19; 58:7,9,17;59:11,15, 24;60:6,9,17;61:2,5, 11,15,20;62:1,6,9,11, 18;63:4,7,9,18;64:20, 24;65:7,15,23;66:2 free (1) 45:16 full (3) 19:6;39:16,20 full-time (2) 17:25;23:18 functioning (1) 44:20 further (3) 6:17;55:23;64:11	58:14 goes (1) 53:4 good (3) 18:11;29:4;61:3 governing (1) 43:11 Green (6) 6:4,5,5,5,10,10 group (4) 47:17;52:23,24,25 groups (3) 33:24;52:21,22 guess (1) 21:6 guidance (1) 53:24 guide (1) 45:16 gwilcox@levytratercom (1) 28:11 Gwynne (1) 5:22
H				
handed (1) 7:12 handy (1) 63:3 Hang (1) 16:25 happen (1) 45:15 happens (1) 47:23 health (5) 45:24;47:6;48:11, 11,13 Healthcare (1) 40:15 hear (3) 19:15;23:7;56:24 heard (5) 18:8;19:14,15; 23:9;54:23 HEARING (248) 5:3,4,4,10,12,14; 6:2,6,12,15,19,22; 7:3,11,15,25;8:3,7, 10,14,15,18;9:2,4,13, 18,20,25;10:1,3,5,7, 10,11,19,21,25; 11:20,25;12:4,4,7,15, 21;13:3,6,11,18,22; 14:3,9,13,18,23,25; 15:3,15,21,24;16:9, 13,21,25;17:9,12,16, 23;18:3,11;19:4,18, 23;20:7,10,14,22,25; 21:4,9,14,19;22:1,3; 23:2,15,22;24:4,8,14, 17;25:1,4,8,18,22;				
G				
General (1) 59:7 given (4) 28:15;47:12;55:12; 58:13 giving (1)				

26:3,13,18,20,22; 27:8,19;28:5,14,18, 24;29:2,6,15,18,22; 30:4,7,10,12,14,16, 18,25;31:6,18;32:9, 16,25;33:15,22;34:1, 2,7,11,13;35:8,12,20; 36:9,12,14,21;37:3, 12,14,19,23,25;38:2, 5,9,13,15,19,21;39:2, 4,11,20,23;40:13,17, 22,23;41:2,5,6,15,25; 42:20;44:7;45:9,13; 48:8,16,20;49:1,6,15, 24;50:3,7,11;51:2,8, 13,19;52:4,9,12,15; 53:8,13,16;54:12,21, 24,25;55:2,10,14,18, 19,25;56:2,7,10,15, 19,22;57:17;58:5,8, 10,10,13,16,22,25; 59:12,17;60:2,4,8,14, 24;61:4,7,10,13,14, 16,19,23;62:2,3,7,10, 13,23;63:5,8,11; 64:16,23;65:1,6,8,18, 24;66:1,4	9,10,24,25;44:2,3,17, 19,25;45:3,3,4,8,19, 20,22;46:1,4,6,14,19, 20,22,23,24;47:3,7,9, 10,13,18,18,19,21,25; 48:1,7,18;49:23; 50:10,11,15,18;51:7, 17,22;52:2,6;53:3,18, 19;54:10,17,19;55:6, 7,9;56:12;60:7,20,22; 61:1;64:5	21:2,13,24;32:11; 43:25;44:1,55:6;57:4	28:19 involved (4) 17:25;37:9;44:3; 57:22 involves (1) 59:5 involving (2) 36:16;40:18 isolated (1) 52:25 issue (48) 5:7;15:16,24; 16:22,25;17:5;18:12; 19:8,8;23:9;24:6; 25:3,10,13;29:2,8; 32:4;34:13;41:11; 42:6;43:20;44:11,12; 53:4;55:3,17,21,22, 23;57:7,10,12,12,13, 20;58:5,11,12,14,15, 21;59:1,9,16;60:15; 62:2;65:4,17 issued (1) 64:3 issues (30) 34:2;36:4;41:2; 44:8,18;45:13;55:16; 56:13,25;57:2,8,9,15; 58:19;60:2,17;61:7, 12,18,22;62:1;63:9, 23;64:10,18;65:3,5,5, 14,25 items (1) 11:8	61:11,21 Kings (12) 5:5;6:3;7:5;11:18; 20:12;22:10;39:22; 40:6,6;59:24;60:2; 63:25 knowledge (2) 40:20,21 knows (2) 34:10;47:10 Krueger (2) 6:4,10
hearings (3) 55:16;61:9;66:3 hears (1) 10:25 held (7) 32:23;47:9,10; 50:6,14,18;53:25 help (2) 20:4,8 helps (1) 39:7 Here's (1) 9:24 highly (2) 57:20;58:23 hired (1) 46:22 hiring (1) 43:16 history (3) 12:8;36:10;54:3 hold (1) 17:12 Homes (1) 13:9 Hospital (113) 5:5;6:8,9;11:17,17; 12:17,24,25;13:2,14; 14:22;18:19;19:1,2,7, 20;20:12,21;21:13; 22:10,14,16,17,24; 27:2,6;31:4,10,14,17; 32:4,5,7;33:17,20,20; 34:6,10;35:2;36:17; 37:10;39:17,19,19; 42:14,16,23;43:2,3,5,	Hospitals (12) 12:23;13:9,13; 31:3;44:4,6,14,21; 45:24;48:12,13;54:4 hospital's (2) 46:17;49:20 HR (1) 47:6 human (1) 47:6 hyperbaric (3) 25:12;30:14;31:1 hypobaric (3) 17:21;18:5;24:1 hypothetical (3) 32:18;33:13;34:4	includes (4) 12:25;24:20;35:16; 45:20 including (5) 11:8;18:3;19:6; 40:25;57:2 incomplete (1) 7:21 inconsistent (3) 31:16;61:8,16 incorporates (1) 49:20 incumbent (3) 43:7;51:23;54:2 index (2) 7:4,7 indicates (2) 11:12;65:10 individual (1) 25:17 individuals (2) 13:17;40:7 Industries (1) 43:14 information (7) 41:4;49:11;61:6, 12,21;64:2,6 informed (2) 5:11;24:16 inherently (2) 57:21;61:8 initial (2) 40:4;63:24 inquire (1) 41:3 institution (1) 51:16 integration (2) 33:16,18 intention (1) 18:17 interaction (1) 46:20 interchange (1) 45:3 interest (14) 6:19;10:24;32:1; 33:23;34:2,5;43:8; 44:12,23;45:5,10,11; 46:19;57:3 interstate (1) 11:13 intervene (1) 10:20 into (16) 8:18;17:1;18:18, 19;19:20;27:9;31:14; 32:3,13,13;34:6; 36:3;38:24;44:7; 54:2;62:11 inverted (1)	James (2) 6:3,9 job (9) 16:15;18:7;23:15, 17;25:13;27:9;29:11, 18,23 jobs (1) 33:18 John's (3) 51:6,22;52:17 join (2) 34:18,19 joining (1) 43:1 joint (14) 22:17;31:22;42:7, 18;43:6,10;44:9; 45:6;53:5;54:6; 55:20;57:1;59:1,4	Labor (14) 5:9,10;6:18;8:3,5; 10:23;11:8,23;14:8,9, 24,25;36:17;58:20 language (2) 18:16;41:3 large (1) 33:7 larger (4) 30:22;33:8;51:10; 57:5 last (5) 8:14;13:20;28:6; 56:4;63:15 later (2) 6:16;10:11 law (3) 43:6;56:4;59:5 Lawrence (1) 34:10 lawyer (1) 49:9 League (12) 12:23,24;13:8,12; 14:6,15;16:16;44:3,4, 5,6;46:9 least (3) 55:19;58:21;65:12 leaving (2) 17:4;62:3 Lee (2) 43:23;53:2 left (3) 60:11,21;61:2 letter (5) 7:5,12;8:1,2,10 leverage (2) 44:17,18 Levy (2) 5:22,24 liability (1) 11:18 license (2) 45:23;46:17 licensed (3) 18:4;23:25;25:11 licensing (1) 48:10
L				
J				
K				
keep (4) 10:13;25:19;51:2, 24 kinds (2)				

lies (2) 59:2,5	28:4	method (1) 43:18	60:20	7:5,22;11:9,16,18; 12:16,18;13:9,12,14; 14:22;15:2,4,19,22; 16:15;18:1,18,19,25; 19:7;20:20;21:2; 22:9,13,15,24;27:5, 16,25;29:7;32:10; 34:15;36:10,16;38:6; 39:15,17,18,19,25; 40:19;42:14;45:23; 46:4,5;47:2,7,8,10, 24;48:10;49:16,19; 50:8;55:15;60:24,25; 61:17,17;62:14;64:5
limited (1) 11:18	mailed (1) 7:22	Methodist (72) 5:5;6:8,9;7:22; 11:10,17;12:17,18, 24,25;13:1,12,14; 14:22;15:4,19,22; 16:16;18:1,19,20,25; 19:7;20:21;21:2; 22:9,13,15,17,24; 27:6,16,25;29:7; 32:10;33:14,17; 34:15;35:2;36:10,16; 38:6;39:15,17,18,19, 25;40:19;41:23,25; 42:2,3,6,14,16;45:19; 46:4,5;47:2,7,8,10, 19,24;48:1;49:19; 50:8;60:7,20,25,25; 64:5	moving (2) 9:25;38:21	7:5,22;11:9,16,18; 12:16,18;13:9,12,14; 14:22;15:2,4,19,22; 16:15;18:1,18,19,25; 19:7;20:20;21:2; 22:9,13,15,24;27:5, 16,25;29:7;32:10; 34:15;36:10,16;38:6; 39:15,17,18,19,25; 40:19;42:14;45:23; 46:4,5;47:2,7,8,10, 24;48:10;49:16,19; 50:8;55:15;60:24,25; 61:17,17;62:14;64:5
list (4) 16:15;26:25;28:21, 21	maintenance (5) 12:25;13:25;35:4; 39:1;53:1	Methodist's (1) 49:16	MSO (74) 5:5;6:3,7;7:22; 11:10,18;20:12; 22:10,12,15,17,23; 27:25;29:1,4,6; 30:22;31:24,24;32:3; 33:16,18,20;34:5,15; 39:14,21,22,25;40:6, 6,19;41:17;42:6,10, 12,15,15,23,25;43:2, 8,10,15,25;44:1,5,14; 45:7;47:10,11,18,19, 23;48:7,16,17,22; 49:7,16,21;50:8,16; 54:9,14,17;58:17; 59:24;60:2,19,20,22; 63:25;64:5	next (2) 16:22,25
listed (7) 10:18;23:16;25:10; 26:4;29:11;30:22; 36:2	makes (4) 39:6;47:20,21; 56:17	Methodist/MSO (1) 7:5	MSO-1 (5) 38:8,9,13,14,20	night (3) 28:6;56:5;63:15
listing (1) 26:11	making (5) 8:13;56:3;60:16; 62:21;63:21	Methodist's (1) 49:16	MSO's (6) 27:15;28:23,24,25; 29:10;32:11	NLRB (8) 11:3;13:16;43:14, 24;52:18;53:4,17,24
lists (1) 49:16	management (1) 48:23	might (5) 16:1;18:15;33:1; 40:20;57:22	multi-employer (4) 13:9;43:1;44:2; 47:17	nobody (1) 47:11
litigated (3) 56:25;57:10;58:6	manager (9) 17:21;18:4;23:25; 24:22;25:11,16,25; 29:11,13	misidentifies (2) 8:17;58:4	multiple (2) 52:21;61:6	non-acute (14) 43:4;44:16,18,22; 47:13;50:5,16,20; 51:15,15;54:9;55:7, 23;56:12
litigation (1) 41:2	mandated (1) 41:14	misinformation (1) 7:18	must (3) 43:21;45:24;59:6	nonconforming (2) 36:1,9
little (1) 64:19	mandates (1) 44:13	minutes (2) 11:4;65:2	myself (1) 22:2	nonprofessional (14) 17:10,25;19:6; 23:19;26:10,24;27:1, 3,7,11;30:1;35:2,13, 16
LLC (8) 5:6;6:3;7:5;11:18; 22:10;39:22;40:6; 63:25	manner (1) 43:18	minute (1) 21:11	N	nonprofessionals (2) 18:8;35:12
located (2) 24:19;45:4	March (7) 7:24;8:2,6,9,15; 9:1,25	misnomer (1) 18:15	name (10) 5:18;8:17,20; 39:17,18,21;40:14; 57:12,13,19	nor (1) 44:6
location (8) 12:12;44:24,25; 45:21;46:13;50:17; 55:9;60:23	mark (3) 37:17,18;38:5	mistaken (1) 36:23	named (2) 42:17,19	note (4) 7:3,18;27:23;64:11
locations (4) 13:2;40:24;45:21; 56:12	marked (7) 6:25;11:6;27:13, 15,16;41:16,17	mixture (1) 35:4	names (1) 29:9	Noted (1) 5:2
long (1) 50:13	matter (18) 5:5;9:7;15:7,16; 16:7;23:1;24:18; 25:10;39:7;41:19; 55:13,22,24;63:24; 64:1,11;65:21;66:7	model (1) 52:1	National (5) 5:9,10;8:3,5;58:20	notice (7) 5:14;8:15,17; 24:25;37:5;40:4;58:4
look (6) 17:14;36:5;49:2; 56:21;62:10,24	matters (3) 43:11,15;64:9	moment (1) 17:14	nature (1) 53:18	notices (1) 40:11
looked (3) 28:6;34:25;59:20	may (9) 14:10;34:21,22; 36:18;41:12;42:15; 43:7;55:21;56:16	more (6) 5:15;22:13;30:22; 33:4;51:9;52:6	necessarily (1) 35:25	notwithstanding (3) 26:16;31:22;58:3
looking (8) 18:7,23,23;20:17; 28:15;29:22;36:15; 50:14	mean (17) 8:8;16:1;18:6,6,22; 23:15;31:21;35:23; 38:2;52:5,17;53:4; 54:3;55:4,18;60:10, 12	morning (3) 63:3,15;65:4	necessary (4) 10:7;15:16;41:7; 59:13	Number (4) 5:6;23:6;36:15; 37:1
Lorillard (1) 53:23	meaning (3) 11:9;15:10;20:18	most (1) 40:25	need (10) 5:20;16:14;22:24; 29:20;41:3,12,13; 42:8;56:18;60:15	numbers (4) 28:18;39:2,5,6
lot (1) 54:3	meant (1) 57:11	motion (2) 55:11;65:7	needs (4) 9:21;48:16,17; 56:19	numerous (2) 13:19;27:6
love (1) 37:4	meeting (1) 15:12	motions (3) 10:15,20;11:1	New (67) 5:5,23,23;6:7,9;	nurse (13) 23:25;25:12;26:2, 3,7,7,9,11,12,14,15; 29:15;30:18
LPN (1) 30:8	member (5) 12:24;13:12;44:3; 47:19,25	move (1) 16:10		nurses (10) 14:22;15:2,4,6,9,
LPNs (1) 17:21	Memorial (1) 34:10	moved (1)		
lunch (3) 9:13;41:11;66:5	mentioned (2) 48:9;49:1			
Lystra (1) 6:1				
M				
mail (1)				

20;16:2,6,11;18:4 NYM (1) 19:21	36:9,12,14,21;37:3; 12,14,19,23,25;38:2; 5,9,13,15,19,21;39:2; 4,11,20,23;40:13,17; 22;41:2,15,25;42:20; 44:7;45:9,13;48:8,16; 20;49:1,6,15,24;50:3; 7,11;51:2,8,13,19; 52:4,9,12,15;53:8,13; 16;54:12,21,24;55:2; 14,18,25;56:2,7,15; 57:17;58:5,8,16,25; 59:12,17;60:4,8,14; 24;61:4,10,14,16,23; 62:2,3,7,10,13,23; 63:5,8;64:16,23;65:1, 8,18;66:1,4	58:14,15 opposed (3) 19:24;33:6;52:25 opposite (2) 50:12;51:10 order (9) 5:4;9:20,24;10:4; 11;32:12;35:9;45:24; 62:14 organization (10) 7:23;11:9,24; 14:24;15:1;36:17; 48:23;49:7,17;54:18 organizations (7) 6:19;7:24;10:24; 49:5,12,13,14 organizer (1) 6:1 orientation (2) 46:22,23 original (1) 7:19 others (1) 24:1 otherwise (3) 14:17;41:9;50:6 ought (1) 24:12 out (11) 7:21;8:16,22; 25:18,21,22;40:11; 43:20;47:9,10;64:17 outside (1) 53:21 over (6) 13:20;36:1;44:17; 57:9;65:13,22 overtime (1) 43:18	particular (6) 17:17;35:6,6,17; 52:20,23 parties (13) 5:11;6:18;10:23; 11:5;12:8;21:15,20; 34:2;36:3;40:22; 41:6,10;64:8 parties' (1) 40:23 part-time (3) 17:25;19:6;23:18 party (5) 5:15;59:2,3,6; 62:20 pass (1) 10:12 patient (1) 53:20 patients (2) 45:20;53:20 Pause (4) 6:14;29:21;37:21; 62:17 payroll (3) 22:13;40:25;42:15 PC (1) 5:22 pediatrics (1) 46:9 pending (1) 40:18 people (7) 32:19,20;40:4,8; 52:2,6,24 per (1) 35:6 percent (1) 47:25 performance (1) 43:19 period (2) 40:25,25 permit (3) 41:2;48:20;54:2 person (6) 30:1;47:7;56:17; 61:3,4;63:1 personally (2) 60:6,23 personnel (1) 46:24 persons (1) 6:18 perspective (3) 34:14,14,22 Petition (41) 5:8;7:19;8:17,20; 9:6;15:13;16:19; 17:2,15;18:15;20:1, 22,25;21:4;23:5,23; 24:18,24,25;25:10, 14;26:6,16;35:17;	39:24;40:3;42:17,19; 43:21;51:1;52:1,7; 55:24;56:8;57:13; 59:25;62:19;63:13; 64:2;65:10,20 petitioned (3) 19:20;42:22;46:21 petitioned-for (6) 12:9,10,14;18:18; 23:13,20 Petitioner (14) 5:17;11:8;12:16; 17:24;18:14,17;30:4; 34:16;40:9,10,14,14; 50:22;56:2 Petitioner's (2) 34:14;39:24 petitioning (5) 18:24;19:3;35:14, 18;50:15 petitions (14) 5:7;16:6;22:8,11, 18;40:18;50:23;54:5; 59:22,25;60:7;62:25; 63:24;64:8 ph (1) 35:9 physicians (1) 54:19 place (1) 9:10 Please (3) 41:4;59:4;66:6 pm (1) 66:7 point (13) 6:15,24;7:21;8:16, 22;34:7;43:20;52:4, 13,15;56:18;58:8; 64:16 policies (1) 46:24 polysomnographic (1) 37:10 position (51) 8:19,21;16:4,5; 18:9,22;21:12;22:15, 16,18;23:10,11,13; 26:5,8;27:10,13,15, 17;29:10,25;33:11; 36:12;41:18,20,24; 42:4,5,7,11,12;45:10; 48:4;50:8;54:21; 56:5,9,19,20,21,23, 24;59:7;61:23;63:25; 64:12,21,21,25; 65:18,19 positions (5) 40:24;44:11;61:25; 64:12,14 possible (1) 58:22 post (3)
O	object (2) 7:16;24:11 objected (1) 39:15 objecting (1) 10:16 objection (11) 8:23;12:2,3,4; 24:23;27:20,22; 37:24;38:15,17; 63:12 objections (2) 11:25;41:20 obtain (2) 22:24;44:17 obviously (1) 57:6 o'clock (1) 61:25 October (2) 9:1;34:12 off (8) 18:13;21:6,9;24:9, 11;60:9,13;66:6 offer (3) 57:19;59:18;65:19 offering (3) 37:22;38:4,6 offhand (1) 13:19 office (17) 17:20,21;18:3,4; 23:24,25;24:22; 25:10,11,16,25;28:2; 29:11,13,25;30:2,19 OFFICER (214) 5:3,10;6:2,6,12,15, 22;7:3,11,15,25;8:3, 7,10,14,18;9:4,13,18; 10:3,5,7,10,19,21,25; 11:20,25;12:4,7,15, 21;13:3,6,11,18,22; 14:3,9,13,18,23,25; 15:3,15,21,24;16:9, 13,21,25;17:9,12,16, 23;18:3,11;19:4,18, 23;20:7,10,14,22,25; 21:4,9,14,19;22:3; 23:2,15,22;24:4,8,14, 17;25:1,4,8,18,22; 26:3,13,18,20,22; 27:8,19;28:5,14,18, 24;29:2,6,15,18,22; 30:4,7,10,12,14,16, 18,25;31:6,18;32:9, 16,25;33:15,22;34:1, 7,11,13;35:8,12,20;	offices (1) 40:18 offsite (1) 46:13 old (1) 39:5 one (50) 7:15;12:11;13:24; 14:11,14,21;17:13; 18:20,24;19:3,20; 20:17;21:24;22:6; 24:19;28:16;29:20; 31:15,15;32:6;33:6,9, 13,18;34:1;35:5,6; 37:9;42:24,25;44:24; 45:1,16,21,21;46:1,2, 3,7,16;48:16,18; 50:23;51:4,21;52:25; 53:14;54:7;58:21; 60:21 ones (1) 39:5 only (7) 17:3;24:5;25:13; 47:19;48:24;50:23; 56:10 onto (1) 38:21 open (2) 59:13,21 opening (2) 62:14;63:2 operate (1) 48:16 operated (1) 45:22 operates (1) 45:22 operating (1) 46:16 operating/has (1) 45:22 operations (1) 44:17 opportunity (5) 8:21;38:18;55:12;	P	
		page (1) 8:14 papers (5) 6:24;9:17,19; 10:12,12 paragraphs (1) 61:6 Park (19) 6:11;12:11;18:21, 25;19:3,20;20:17; 22:7;24:19;33:19; 44:24;45:2,21;46:1,2, 3,7,16;48:18 part (24) 7:7,7,9;2,16;13:22; 16:11;18:25;19:21; 20:12,18;29:8;33:1; 36:19;44:5;46:14; 47:7,17;48:14;49:21; 58:9,13;59:7;62:20, 22		

57:25;58:1,4 posting (1) 57:24 postponement (1) 9:22 postponing (1) 10:11 practical (3) 18:4;23:25;25:12 practices (1) 48:25 precedent (4) 44:13;51:23;54:5, 11 precludes (2) 47:13;55:23 prehearing (1) 11:1 prejudicial (2) 57:20;58:24 premature (1) 55:10 prepared (1) 25:3 present (2) 58:23;59:6 presented (1) 55:4 preserved (1) 57:15 presumption (2) 59:5,6 presumptively (2) 44:21;50:19 pretty (1) 43:6 prevents (2) 44:15,15 previously (4) 13:15;42:13;53:3; 56:9 prior (6) 24:24;40:23;60:1; 63:24;64:13,24 problem (3) 47:5;63:17,22 problems (1) 63:16 Procedure (2) 58:19;61:18 procedures (4) 5:12,13;46:25; 55:16 proceed (2) 21:7;22:20 proceeding (6) 6:20;9:17;10:24; 11:5;55:23;64:8 proceedings (4) 10:20;57:22;64:13, 15 produce (2) 63:6;65:11	professional (34) 13:1;15:10,17,19, 22;16:2,20,23;17:6,8, 19;23:5,8,12,13,16, 17,19,21;26:10,15, 16;27:1,2,7,10;30:1; 35:3,5,14,16,19; 45:14;57:6 professionals (2) 17:11;18:10 profit (6) 42:24,25;49:5,7,10, 13 prohibit (1) 51:6 prohibited (1) 54:10 prohibition (1) 50:5 proliferate (1) 51:9 proliferation (7) 32:18;33:2,9; 44:15;51:1,11,25 proof (4) 57:19;59:1,18; 65:19 properly (3) 7:17;40:12;42:17 propose (1) 6:24 proposed (1) 28:21 proposition (1) 50:12 Prospect (18) 12:11;18:21,24; 19:3,20;20:17;22:7; 24:19;33:19;44:24; 45:2,21;46:1,2,3,7, 16;48:18 prospective (1) 40:5 prove (1) 45:18 provide (7) 5:20;45:24;48:13, 24;49:11;54:17;55:7 provided (8) 5:19;23:10;27:25; 45:25;48:14;55:5; 62:19;63:5 providers (1) 44:14 provides (2) 14:17;54:18 providing (1) 55:8 provision (1) 14:16 public (2) 47:9,11 pull (2)	37:6,7 purpose (2) 33:3,3 purposes (5) 17:2,3;57:15; 62:15;64:8 put (17) 9:5,8,14,19,22; 10:8;16:17;31:4,4; 32:3;40:1;45:7;54:2, 8;62:8,11;63:1 putting (4) 9:9,18,19;50:5 Q quash (5) 11:2;59:25;60:20; 63:13;65:7 quickly (1) 59:9 quite (1) 9:21 quoting (1) 62:24 R raise (8) 55:17,21;58:14,15, 19,21;59:12,17 raised (4) 42:6;55:4;58:6,11 raising (2) 32:4;60:14 Ratner (2) 5:22,25 RD (2) 56:18,23 RD's (1) 56:7 read (3) 53:5;56:4;59:3 reader (3) 17:3;49:3;56:15 reading (2) 17:12;24:5 reads (1) 40:2 real (1) 51:1 reality (1) 36:2 realized (1) 42:1 really (6) 22:12,14;46:13,14; 49:15;52:22 rebut (1) 59:6 receipt (3) 7:16;12:1;27:22 receive (4)	6:24;8:23;28:9; 63:20 received (14) 7:23;8:6,24;9:24; 12:5,6;27:21,24;28:3, 13;38:20;42:3;60:24; 63:16 receiving (3) 38:16;41:20;63:16 recent (1) 40:25 recognize (1) 65:11 recognized (3) 13:15;14:7;44:21 record (67) 5:3,8,17,20;6:16, 22;8:8;9:2,5,6,8,11, 14,20,21,23;10:2; 17:3,20;18:13;21:6, 10;22:5;23:1;24:9, 11,13;25:19;27:12, 23;28:14;29:24;37:4, 25;39:12,13,16;40:1; 42:9,13;44:24;49:2, 3;55:13;56:16;57:20; 58:10,23;59:11,13, 15,20;62:8,9,12,14, 20,22;63:1,2,10; 64:21;65:3,16,23,24; 66:6 refer (3) 26:8;43:23;53:23 reference (6) 23:11;26:7;47:20, 21;53:6;63:22 referenced (1) 53:3 references (1) 23:5 referring (9) 7:25;24:11;28:23, 25;43:13;49:18,19; 51:6;52:18 refiled (1) 64:2 reflect (1) 65:4 reflected (3) 7:6,7,10 reflects (1) 39:24 refuses (1) 54:1 regard (3) 8:19;63:13,21 regarding (1) 44:11 region (3) 28:1;36:16;38:23 regional (7) 10:22;25:1;40:18; 41:8;58:11;59:19;	62:15 registered (13) 14:22;15:4,6,9,20; 16:2,6,11;26:2,3,7, 12,15 regular (3) 17:25;19:6;23:18 regulations (1) 51:5 related (1) 49:13 relating (1) 43:15 Relations (5) 5:9,10;8:4,5;58:20 relationship (7) 12:16;43:16;48:1, 5;49:20;64:5,7 relevance (1) 15:11 relevant (6) 53:8;62:1;64:4,6; 65:12,21 remain (2) 14:12,13 remaining (1) 29:19 remains (1) 37:8 remind (1) 53:18 reminding (1) 40:22 repeat (1) 37:1 rephrase (1) 44:1 report (2) 47:20;49:21 reporter (2) 5:21;10:14 represent (12) 14:21;15:6,12,20, 21;16:6,20;17:18; 22:8;25:17;36:6;43:7 representation (1) 65:25 representative (1) 13:16 represented (7) 15:19;22:19;27:1, 5;40:7;47:16,16 representing (2) 44:16;52:21 represents (3) 19:1;35:2;36:20 request (15) 8:25;9:22;10:6; 19:21;28:1;36:8; 41:12;57:14;58:6; 59:11;62:7,20,21; 64:6;65:20 requested (2)
--	---	--	---	--

37:23;64:3 requesting (3) 59:15;61:6;64:4 require (1) 57:23 required (11) 45:23;47:5,19,22; 48:11,14,22;49:5,11, 21;57:25 requirements (3) 47:1,4;64:7 requires (1) 53:19 rescheduling (3) 9:20,25;10:4 residual (28) 18:12,15;19:12,16, 22,24;20:2,3,4,6,11, 18,18;26:25;31:14; 32:24;33:2,5,5; 42:22;43:7;50:23,25; 51:5,14,24;53:25; 54:2 resolve (1) 55:16 resolved (1) 55:22 resources (1) 47:6 respect (11) 8:25;15:12;23:9; 25:15,16,19;42:5,7; 53:2;55:5;63:23 respond (11) 20:15;23:2,25;6; 35:20;36:13;37:15; 16;38:18;50:1;52:16; 55:15 response (6) 6:21,23;10:25; 42:21;64:21;65:13 responses (1) 6:17 responsible (1) 43:15 rests (1) 59:2 result (2) 51:20,20 results (1) 37:11 reversible (1) 58:24 review (4) 57:14;58:6,7;65:16 reviewed (1) 58:9 revoke (2) 59:22;62:19 revoked (1) 65:20 right (27) 6:15;9:23,24;	10:15;16:10;17:4; 21:9;25:6;29:6,22; 31:3;33:11;34:1; 36:12;37:12;38:1,10, 21;39:4;53:13;54:12, 15;55:2;56:25;62:3; 64:17;66:4 rights (1) 58:18 RNs (2) 15:12,15 room (1) 6:19 rule (2) 25:1;62:22 ruled (1) 56:22 rulemaking (2) 57:11,13 rules (9) 27:24;32:7,23; 58:18;61:8,17,17; 62:24;66:2 ruling (1) 10:21 S safety (1) 47:2 same (16) 31:15;34:20,21,22; 35:25;43:22,22;45:8; 46:1,4;47:15,16; 54:9;55:9,9;57:6 save (1) 56:10 saw (2) 28:8,12 Sawney (2) 6:1,1 saying (16) 21:12,15;25:24; 28:9,12;31:23;34:23; 36:24;51:2;57:20; 58:2,17,22;62:4,24, 25 SCHAEFER (208) 5:3,11;6:2,6,12,15, 22;7:3,11,15,25;8:3, 7,10,14,18;9:4,13,18; 10:3,5,7,10,19;11:20, 25;12:4,7,15,21;13:3, 6,11,18,22;14:3,9,13, 18,23,25;15:3,15,21, 24;16:9,13,21,25; 17:9,12,16,23;18:3, 11;19:4,18,23;20:7, 10,14,22,25;21:4,9, 14,19;22:3;23:2,15, 22;24:4,8,14;25:1,4, 8,18,22;26:3,13,18, 20,22;27:8,19;28:5,	14,18,24;29:2,6,15, 18,22;30:4,7,10,12, 14,16,18,25;31:6,18; 32:9,16,25;33:15,22; 34:1,7,11,13;35:8,12, 20;36:9,12,14,21; 37:3,12,14,19,25; 38:2,5,9,13,15,19,21; 39:2,4,11,20,23; 40:13,17,22;41:15, 25;42:20;44:7;45:9, 13;48:8,16,20;49:1,6, 15,24;50:3,7,11;51:2, 8,13,19;52:4,9,12,15; 53:8,13,16;54:12,21, 24;55:2,14,18,25; 56:2,7,15;57:17;58:5, 8,16,25;59:12,17; 60:4,8,14,24;61:4,10, 14,16,23;62:3,7,10, 13,23;63:5,8;64:16, 23;65:1,8,18;66:1,4 scheduling (1) 43:17 second (5) 11:21;17:13;25:9; 50:24,25 secondary (1) 22:15 Section (2) 62:18;65:10 seek (3) 18:2;19:16;27:3 seeking (30) 15:6,12,14;16:5, 24;17:8,18,19;19:12, 13;21:4;22:8,19; 23:24;25:17,24;26:2, 15,16,24;29:12; 31:18;32:3,17;36:6; 50:25;51:4,24;59:3,6 seeks (2) 16:19;19:19 seems (3) 33:1,6;34:20 SEIU (1) 40:15 selection (1) 19:24 self-determination (6) 19:24;31:19;32:12; 33:4,7,24 self-sufficient (1) 18:20 send (1) 39:6 seniority (1) 43:18 sent (3) 7:5;40:11;63:15 separate (31) 5:8;13:20;14:2,3, 12,13;20:13;21:5;	24:24;32:7;36:23,24; 38:10,25;39:1;42:24; 43:7;44:13,25;47:14; 50:17,20,22;56:12; 59:11,15,20;62:9,11; 65:15,23 separately (1) 11:13 seriatim (1) 32:24 series (1) 11:7 served (17) 8:1;28:2,10;60:1,4, 6,8,12,21,23;61:6,20, 24;63:12,18;64:3; 65:7 service (18) 5:12;8:11,12,16; 12:25;13:25;22:13; 35:4;39:1;41:21; 42:15;44:14;48:23; 57:10,11;60:14,16; 61:3 services (16) 28:5;45:19,25,25; 46:15;48:13,14,15, 18,19,24;54:18,18; 55:5,7,8 servicing (1) 45:20 set (4) 35:6;43:13;48:3; 61:17 setting (3) 44:22;47:14;53:19 several (1) 22:23 shall (2) 62:19,22 shape (1) 29:5 share (4) 32:1;43:11;44:23; 46:18 shortcut (1) 56:16 show (6) 6:16,22;37:19; 44:24;48:4;64:4 showing (1) 64:7 sic (1) 31:12 sign (1) 46:4 single (30) 10:17;14:14;22:16; 31:23;33:10;34:16; 42:7,16;43:4,5; 44:11;45:5;50:18,20; 53:6,6,9,11;54:7,13, 14,16,20;55:19,24;	56:1,13;57:1;58:25; 59:4 sit (1) 64:17 site (1) 44:17 skilled (1) 52:25 small (2) 52:22,25 sole (5) 40:8;42:11,12; 47:25;64:1 solely (1) 53:4 solicit (1) 40:23 Somebody (2) 12:21;16:17 someone (1) 56:19 somewhat (1) 52:24 somewhere (1) 47:24 sonatone (1) 35:9 sorry (12) 5:6;6:6;9:1;10:11; 20:24;24:4;27:14; 28:19;30:21;39:14, 25;41:17 sought (3) 17:6;26:9;40:7 speaks (1) 11:21 special (1) 57:2 specific (2) 59:7;60:15 specifically (3) 14:6;32:23;51:6 specified (1) 11:16 specify (1) 48:13 spell (1) 5:20 spelling (1) 5:18 spent (1) 65:4 Spine (1) 46:10 spoken (1) 46:24 St (3) 51:6,22;52:17 stand (1) 19:12 standalone (1) 21:5 standard (1)
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31:8 standards (1) 43:13 start (1) 45:17 starting (2) 5:17;44:12 state (5) 5:16;15:2;45:23; 48:10;63:10 stated (4) 20:16;41:15;42:13; 64:20 statement (15) 10:17;23:10;26:8; 27:13,15;29:10; 41:18,20,23;42:3; 50:8;56:3;64:11,12, 14 statements (5) 27:17;42:6;47:22; 49:23;59:8 still (4) 34:4;37:8;51:21; 59:15 stip (4) 11:20,21,21;19:10 stipulate (5) 11:23;15:9,17; 19:5;21:15 stipulated (1) 31:2 stipulating (1) 29:12 stipulation (3) 11:12,16;14:6 stipulations (1) 11:7 Street (3) 45:4;46:3,5 strikes (1) 20:2 subject (1) 46:25 submitted (4) 10:21;41:23;42:2; 64:13 subpoena (9) 59:9,13,16;60:17, 21,23;61:5;62:19; 63:2 subpoenaed (1) 22:23 subpoenas (11) 11:2;59:25;60:11, 20;61:20;63:12,13; 64:3,3,3,6 sufficient (1) 59:8 suggests (1) 40:4 Suite (2) 24:19;33:21	supervision (1) 43:17 Supreme (3) 53:15,17,24 sure (14) 6:13;17:16;22:3; 26:12;28:15;30:25; 37:2;38:19;50:3; 53:16;54:24;56:15; 60:22;64:16 T talked (1) 18:13 talking (4) 17:4;33:2;48:12; 49:17 tax (1) 49:9 tech (2) 32:13;34:18 technical (23) 12:17;13:1,25; 30:8,15;31:2,7,11,12, 12,15,20;32:5;35:4, 10,24;36:7,19,23,24; 45:15;57:7,7 technician (4) 17:22;18:5;24:1; 25:12 technicians (1) 37:10 technologist (2) 30:14;31:2 techs (5) 32:12;34:18;35:9, 10,22 term (4) 18:12,15;33:25; 42:23 terms (18) 7:12;9:20;12:7; 14:15;17:1;18:16; 19:11,12;23:22;25:8; 27:9;34:13,17,23; 36:3;39:11;43:12; 58:25 theory (2) 45:6;53:12 Therefore (1) 33:24 third (1) 45:1 thirdly (1) 7:21 though (3) 19:24;20:12;37:8 thought (2) 55:15;66:3 three (3) 52:2,6;65:2 Thursday (1)	41:13 times (2) 40:24;51:17 title (6) 26:9,14;30:2,3,9,15 titles (5) 18:7;23:23;25:9; 26:11;27:6 today (3) 37:6;63:11;64:15 together (2) 32:1;50:6 told (1) 64:17 tomorrow (1) 16:14 tonight (1) 37:6 topic (1) 43:6 totally (2) 52:20;53:1 touch (1) 45:15 traditional (1) 21:19 training (1) 47:5 treated (1) 47:9 treating (1) 48:7 trip (1) 61:15 true (2) 40:14;58:1 truly (1) 21:11 try (4) 19:9;39:5;55:16,17 trying (11) 18:16;19:15;20:1, 4,8;31:3,4;54:3,8; 55:21;56:10 Tuesday (1) 10:1 turned (2) 65:13,22 two (18) 5:7;26:25;32:19, 20;33:6;38:10;42:18; 45:13;48:2,5;50:22; 51:5,17;52:11;60:7, 17,18;64:13 type (1) 32:24 types (1) 40:24 typical (1) 21:15 U	ultimately (1) 34:20 under (10) 11:14;14:11;16:6; 32:7;45:22;46:1,9, 16;53:24;59:5 undue (5) 32:18;44:15;51:1, 25;54:3 unduly (1) 62:4 unfortunately (1) 39:3 Union (68) 7:19;11:23;13:16; 15:18;16:2,4,5; 17:18;18:23,23;19:1, 15,19;20:3,16;21:7; 22:4,6,8,11,20;23:4, 23;24:17;25:16,17, 18,21,24;26:1,15; 27:2;29:12;30:4,17, 21;31:3,4,18;32:3,17, 19;35:18;36:6;40:20; 43:7;44:10,15;45:6; 47:16;51:8,14;52:10; 54:2,3,8,13;55:12,25; 60:1,10,11,12,21; 61:5;63:24;64:2,20 unions (1) 52:21 Union's (10) 21:12;23:12;26:5, 23;33:11;39:8;42:23; 45:10;52:1;64:25 unique (1) 53:18 unit (102) 12:9,10,24;13:25; 16:12;17:1,7,17,19, 24;18:18,19,20,25; 19:5,9,12,12,16,20, 21,22,25;20:2,3,4,11, 12,19;21:2,5,13,16, 23;22:22;26:23,25; 27:1,5;28:21;31:5,10, 10,11,13,14,15,17,25; 32:2,3,6,11,13,14,18, 20,21;33:7,8,10;34:6, 18,19;35:1,3,3,6,15, 25;36:20,23,24;39:1; 40:5,7;42:22;43:4,7, 22;44:2,8;45:8,14; 47:15;50:15,19,20, 25;51:10,14,17,21, 23,24;52:2,6;54:1,9; 57:2,5,6 United (1) 40:15 units (37) 13:15,20;14:2,4,7, 10,10,12,13;27:3; 31:8,8,14;32:6,8,22,	24;33:2,3,6,9;34:24; 36:1,2;44:13,15,22, 22;47:14;50:14;51:1, 5,9,11,24,25;54:2 unless (3) 27:20;41:7;66:2 unrepresented (1) 22:7 up (6) 6:13;10:13;16:22; 21:22;49:2;51:19 upgraded (1) 47:4 upon (5) 22:21;27:25;62:20; 63:13;64:1 Urology (3) 17:5;50:25;60:19 use (6) 18:12,16;19:16; 33:25;42:22;44:18 used (1) 25:23 uses (1) 18:15 using (3) 27:14;29:19;45:7 usually (1) 21:22 V valid (1) 44:21 various (2) 13:2;52:21 versus (4) 27:11;45:15;55:22; 57:6 via (1) 22:8 view (2) 29:1;56:11 violates (2) 57:24;58:19 virtually (1) 64:14 virtue (1) 46:14 Voluntary (5) 12:23;13:8,13; 44:4,5 vote (3) 20:19;34:6;35:15 W Wait (1) 21:11 walk (1) 46:3 wants (2) 5:15;9:6
---	---	---	--	---

warrants (1) 41:9	57:19			
way (7) 23:23;34:9;39:14; 40:1;46:5;47:8;58:23	work (9) 32:1;33:18,19,20; 43:18,19;45:2;46:9, 10			
week (1) 52:5	workers (10) 18:24;20:17,20; 22:19;34:19;35:7; 40:15;46:21;48:6; 52:22			
West (18) 12:11;18:21,25; 19:3,21;20:17;22:7; 24:19;33:19;44:25; 45:2,21;46:1,2,4,7, 16;48:19	working (3) 12:11;46:8;50:16			
what's (6) 21:22;42:21;49:3; 50:25;56:22;62:4	Wound (18) 17:4,7,18;23:20; 24:8,21;25:8,12,15, 16,25;26:2;27:3,11; 29:13;31:25;33:21; 35:17			
whereby (1) 61:18	write (2) 5:19;56:19			
Whereupon (1) 66:7	writing (1) 40:9			
whole (2) 65:10,16	wrong (3) 24:5;40:11;51:20			
Wilcox (105) 5:21,22,22;8:8,25; 9:16;10:2,4,6,9;12:2, 13,19,22;13:22; 14:18,20;15:5,8,11, 18,20,23;16:4,11; 17:13,14,17;18:2,6, 22;19:14;20:6,14,16, 24;21:3,6,14;22:2,4; 23:7,17;24:2,7,9,15, 16;25:15;26:4,6,18, 19;27:5,22;28:3,8,12; 29:14,16,17;30:6,10, 11,13,16,17;33:11, 12;34:25;35:10,13, 23;36:11,23;37:1,14, 16,22;38:1,17;39:10; 40:16;41:21,22;42:5, 10;45:12,18;48:10, 17,21;49:4,9,19;50:1, 4;52:17;53:10;54:23, 25;55:3;63:10,18,20	wrongly (1) 40:4			
	Y			
	years (2) 13:21;39:7			
	yesterday (5) 23:10;49:2;60:11; 64:15;65:7			
	York (63) 5:5,23,23;6:7,9; 7:5,22;11:9,17,18; 12:16,18;13:9,12,14; 14:22;15:2,4,19,22; 16:15;18:1,18,20,25; 19:7;20:20;21:2; 22:9,13,15,24;27:6, 16,25;29:7;32:10; 34:15;36:10,16;38:6; 39:15,17,18,19,25; 40:19;42:14;45:23; 46:4,5;47:2,7,8,10, 24;48:10;49:16,19; 50:8;60:25,25;64:5			
withdrawal (1) 7:20				
withdrawing (1) 23:4				
withdrawn (1) 7:20				
within (3) 11:9;15:10;19:2				
without (2) 55:16,19				
witnesses (1) 59:8				
word (4) 19:16;25:23;27:14; 33:5				
wording (2) 20:22,25				
words (4) 26:9;31:13;32:19;				

In The Matter Of:
*NEW YORK METHODIST MSOB of Kings
County and
1199 SEIU, UNITED HEALTHCARE
WORKERS EAST*

*Vol. 2
April 06, 2016*

*Burke Court Reporting, LLC
1044 Route 23, Suite 316
Wayne, NJ 0747
(973) 692-0660*

Original File NY Methodist vol 2.prn

Min-U-Script® with Word Index

Page 68

BEFORE THE
NATIONAL LABOR RELATIONS BOARD REGION 29

In the Matter of:
NEW YORK METHODIST/MO OF RC-
172410 KINGS COUNTY, LLC,
Case No. 29-RC-172410
Employer,
and
1199 SEIU, UNITED HEALTHCARE
WORKERS EAST,
Petitioner.

The above-entitled matter came on for hearing pursuant to
Notice, before ERIN SCHAFFER, Hearing Officer, at the National
Labor Relations Board, Region 29, 2 Metrotech Center, Suite
500, Brooklyn, New York 11201, on Wednesday, April 6, 2016, at
9:30 a.m.

BURKE COURT REPORTING, LLC
1044 Route 23 North, Suite 206
Wayne, New Jersey 07470

Page 70

I N D E X

	WITNESS	DIRECT	CROSS	REDIRECT	RECROSS	VOIR DIRE
1						
2						
3						
4						
5	MARITZA FLORES-SHAH					
6	by Mr. Felstiner		110			
7	by Mr. Frank					119
8	by Mr. Felstiner		120			
9	by Mr. Frank					133
10	by Mr. Felstiner		134			
11	by Mr. Frank					137
12	by Mr. Felstiner		144			
13	by Mr. Frank					157
14	by Mr. Felstiner		156			
15	by Mr. Frank					161
16	by Mr. Frank				205	
17	by Mr. Felstiner					217
18	by Mr. Frank					232
19						
20						
21						

Page 69

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Page 71

E X H I B I T S

	EXHIBITS	IDENTIFIED	RECEIVED
1			
2			
3	Union's:		
4	1	114	115
5	2	118	120
6	3	132	134
7	4	135	136
8	5	143	143
9	6	144	145
10	7	146	147
11	8	149	150
12	9	154	156
13	10	156	157
14	11	158	160
15	12	160	162
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<p style="text-align: right;">Page 72</p> <p>1 PROCEEDINGS</p> <p>2 (Time Noted: 10:48 a.m.)</p> <p>3 HEARING OFFICER SCHAFFER: <small>(b)(6)</small></p> <p>4 order. This is a formal hearing in the matter of New York</p> <p>5 Methodist Hospital and New York -- I'm sorry, MSO of Kings</p> <p>6 County, LLC, Case No. 29-RC-172410. The hearing officer</p> <p>7 appearing for the National Labor Relations Board is Erin</p> <p>8 Schaffer.</p> <p>9 This hearing is closely connected to Case 29-RC-172398</p> <p>10 involving the same entities, New York Methodist Hospitals and</p> <p>11 MSO of Kings County, LLC and the petitioner in both cases is</p> <p>12 Local 1199 SEIU, United Healthcare Workers East.</p> <p>13 The -- we're opening a new record in 29-RC-172410, we're</p> <p>14 taking administrative notice of the record that is also being</p> <p>15 created in 29-RC-172398. This record concerns the employees at</p> <p>16 the urology department, whereas the other case involves the</p> <p>17 employees at the wound care department. The positions of the</p> <p>18 parties are substantially the same regarding the joint employer</p> <p>19 issue and the community of interest issue. Is that -- you're</p> <p>20 shaking your head, Mr. Franks (sic). For urology and wound</p> <p>21 care?</p>	<p style="text-align: right;">Page 74</p> <p>1 (No response)</p> <p>2 HEARING OFFICER SCHAFFER: <small>Hearing no --</small></p> <p>3 MR. FRANK: Wait a minute. I believe that this Board</p> <p>4 exhibit has the same deficiencies that the Board Exhibit 1 had</p> <p>5 before, in that there's --</p> <p>6 HEARING OFFICER SCHAFFER: <small>This exhibit -- the exhibit is</small></p> <p>7 this exhibit does not include a reference to the letter that</p> <p>8 was sent to MSO in Kings --</p> <p>9 MR. FRANK: And there's no letter in the exhibit.</p> <p>10 HEARING OFFICER SCHAFFER: <small>-- and that's not in the file</small></p> <p>11 MR. FRANK: Right.</p> <p>12 HEARING OFFICER SCHAFFER: <small>This is in the -- as I observed</small></p> <p>13 you yesterday, we went over this yesterday, when you pointed</p> <p>14 that out, I added that to the exhibit that's in the record. So</p> <p>15 the exhibit that's in the record does have the letter that you</p> <p>16 are referencing.</p> <p>17 MR. FRANK: But not in this case. This is a different</p> <p>18 case with a different petition.</p> <p>19 HEARING OFFICER SCHAFFER: <small>He thinks (b)(6) would you</small></p> <p>20 like to look at it?</p> <p>21 MR. FRANK: Sure.</p> <p>22 HEARING OFFICER SCHAFFER: <small>Emphasized to you what I did</small></p> <p>23 yesterday. Let's go off the record for a second.</p> <p>24 (Recessed at 10:52 a.m.; reconvened at 10:54 a.m.)</p> <p>25 HEARING OFFICER SCHAFFER: <small>Can I show the Board again.</small></p>
<p style="text-align: right;">Page 73</p> <p>1 HEARING OFFICER SCHAFFER: <small>(b)(6) -- no Board again.</small></p> <p>2 what, there are two records that we're created, but we're</p> <p>3 taking administrative notice of the records in each case. So</p> <p>4 at this point, the union's going to call the witness.</p> <p>5 MR. FRANK: Before you do that, I would like to put in the</p> <p>6 record the employer's statement position because that's not in</p> <p>7 the record for the urology case.</p> <p>8 HEARING OFFICER SCHAFFER: <small>Thank you. I -- you heard you</small></p> <p>9 for reminding me. I have them prepared here. I --</p> <p>10 MR. FRANK: Okay. There's an MSO statement of position,</p> <p>11 which we need to put on the record.</p> <p>12 HEARING OFFICER SCHAFFER: Yes.</p> <p>13 MR. FRANK: We need to put the petitions into this record.</p> <p>14 HEARING OFFICER SCHAFFER: Yes.</p> <p>15 MR. FRANK: Because it's a different position than the</p> <p>16 other days, and in Methodist Hospital has a separate statement</p> <p>17 of position which should be put into the record --</p> <p>18 HEARING OFFICER SCHAFFER: <small>Thank you for --</small></p> <p>19 MR. FRANK: -- and then we need the union's response so</p> <p>20 that we know what the issues are.</p> <p>21 HEARING OFFICER SCHAFFER: <small>I will do that now, thank you.</small></p> <p>22 The Board Exhibit -- there's a Board Exhibit 1 in case --</p> <p>23 in this Case No. 12 -- 172410, so is there any objection to</p> <p>24 putting the formal papers in?</p> <p>25 (Board Exhibit No. 1 identified)</p>	<p style="text-align: right;">Page 75</p> <p>1 please?</p> <p>2 Are there any objection to the formal papers being marked</p> <p>3 as Board Exhibit 1?</p> <p>4 MR. FRANK: With the substitutions being made, we have no</p> <p>5 objections if we get a cop.</p> <p>6 HEARING OFFICER SCHAFFER: <small>(b)(6) -- Board Exhibit 1 and 1</small></p> <p>7 are the statements of position that were filed by MSO and by</p> <p>8 New York Methodist. I'm not sure which one is 2 and which one</p> <p>9 is 3, but.</p> <p>10 (Board Exhibit Nos. 2 and 3 identified)</p> <p>11 MR. FRANK: I believe in --</p> <p>12 HEARING OFFICER SCHAFFER: <small>This is not that one, it's the</small></p> <p>13 statements of position.</p> <p>14 MR. FRANK: These are different statements of position.</p> <p>15 HEARING OFFICER SCHAFFER: <small>I understand.</small></p> <p>16 MR. FRANK: In the prior record, the stipulation -- the --</p> <p>17 Board 2 is commerce.</p> <p>18 MS. WILCOX: Yeah.</p> <p>19 MR. FRANK: And the MSO is Board 3 and the hospital is</p> <p>20 Board 4, if you want to be consistent.</p> <p>21 (Board Exhibit No. 4 identified)</p> <p>22 HEARING OFFICER SCHAFFER: Okay.</p> <p>23 MS. WILCOX: So did the Board stip from yesterday going to</p> <p>24 be part of -- are you putting that back in as --</p> <p>25 HEARING OFFICER SCHAFFER: <small>The stipulation is the stipulation that</small></p>

Page 76	Page 78
<p>1 back in Board Exhibit 2, so yeah.</p> <p>2 Okay. So -- all right. So Board Exhibit 2 in this case</p> <p>3 is stipulation that was signed by the parties, concerning</p> <p>4 commerce and labor organization status. Is there any objection</p> <p>5 to putting Board Exhibit 2 in the record?</p> <p>6 MS. WILCOX: No objection. I think -- did we sign both</p> <p>7 one?</p> <p>8 HEARING OFFICER SCHAFFER: <small>There's one and every just</small></p> <p>9 going to -- we'll put them both in.</p> <p>10 MR. FRANK: What I would suggest is if we do a second one,</p> <p>11 to put this case number on it.</p> <p>12 HEARING OFFICER SCHAFFER: <small>Well, this actually --</small></p> <p>13 MR. FRANK: With the stip we signed.</p> <p>14 HEARING OFFICER SCHAFFER: <small>There was one -- let's --</small></p> <p>15 there were two yesterday, I understand and what we can do is</p> <p>16 put both cases on this if that's --</p> <p>17 MR. FRANK: No, I would --</p> <p>18 HEARING OFFICER SCHAFFER: This --</p> <p>19 MR. FRANK: My only reason for suggesting that we have two</p> <p>20 complete records is there may be different results in these</p> <p>21 cases, so any future proceedings might only involve one case</p> <p>22 not both cases.</p> <p>23 HEARING OFFICER SCHAFFER: Okay.</p> <p>24 MR. FRANK: The commerce stipulation is fine, but I think</p> <p>25 we should do a separate one --</p>	<p>1 issue is for hearing in this matter, including the issues of</p> <p>2 community interest of the employees in the urology department,</p> <p>3 or I'm sorry, in the urology practice at 1 Prospect Park West,</p> <p>4 with employees at New York Methodist, as well as the</p> <p>5 classifications appropriate in the unit and the professional</p> <p>6 versus technical employees.</p> <p>7 Are there in this -- in the urology case, are there other</p> <p>8 -- are there any -- now, there are different, in terms of the</p> <p>9 initial -- the classifications of employees, there's no office</p> <p>10 manager issue with this -- are there any other issues with</p> <p>11 regard to classification in this particular -- that are</p> <p>12 specific to this unit, this unit of employees that the employer</p> <p>13 would like to raise, or that it wants to point out?</p> <p>14 MR. FRANK: Yes. I understand your desire to see</p> <p>15 similarities between these cases, but this is an entirely</p> <p>16 different type of practice than existed in the other case. I</p> <p>17 think the first question which we've identified in our</p> <p>18 statement of position, and I certainly would like the</p> <p>19 opportunity to go through this in detail, but in terms of</p> <p>20 differences between the petitions, in this case, the union</p> <p>21 seeks to include physician assistants in the bargaining unit,</p> <p>22 which are professional employees, that they do not represent at</p> <p>23 New York Methodist Hospital or anywhere else.</p> <p>24 On its face, the physician assistants cannot be a residual</p> <p>25 unit as claimed by the petitioner. They don't represent</p>
Page 77	Page 79
<p>1 HEARING OFFICER SCHAFFER: <small>It's only the commerce stip</small></p> <p>2 MR. FRANK: I know, for this case, but in any subsequent</p> <p>3 appeal, if that ever became necessary might not involve both</p> <p>4 cases.</p> <p>5 HEARING OFFICER SCHAFFER: <small>I thought there were -- all</small></p> <p>6 right. Okay. We'll do --</p> <p>7 MR. FRANK: Can we go off the record a second?</p> <p>8 Can we go off the record?</p> <p>9 HEARING OFFICER SCHAFFER: <small>Yeah, let's go off the record.</small></p> <p>10 (Recessed at 10:57 a.m.; reconvened at 11:02 a.m.)</p> <p>11 HEARING OFFICER SCHAFFER: <small>There were two yesterday</small></p> <p>12 MR. FRANK: Are we on the record?</p> <p>13 HEARING OFFICER SCHAFFER: <small>Yeah. Tomorrow, we were</small></p> <p>14 through the issues for hearing and the positions of the</p> <p>15 parties. I'm going to give the parties an opportunity, if they</p> <p>16 want, to -- obviously this -- there's two different medical</p> <p>17 centers, one wound, one urology, medical practices.</p> <p>18 MR. FRANK: They're very different.</p> <p>19 HEARING OFFICER SCHAFFER: <small>Okay. I -- you keep saying --</small></p> <p>20 I just said they were different medical centers. And I wanted</p> <p>21 to make sure I was using the right word.</p> <p>22 The -- to the extent, though, that the issues to be</p> <p>23 determined in this matter constitute the joint -- the</p> <p>24 allegation that New York Methodist is the employer or the New</p> <p>25 York Methodist and MSO are single or joint employers, that</p>	<p>1 physician assistants anywhere, at New York Methodist or at MSO</p> <p>2 of King County Urology.</p> <p>3 In this regard, the union is also not seeking to represent</p> <p>4 registered nurses, who may be employed at MSO Kings County and</p> <p>5 urology practice, even though such people are represented by</p> <p>6 another union, the New York City nurses at New York Methodist</p> <p>7 Hospital.</p> <p>8 HEARING OFFICER SCHAFFER: <small>He's not and they're not seeking</small></p> <p>9 to represent them?</p> <p>10 MR. FRANK: I believe that is my understanding.</p> <p>11 HEARING OFFICER SCHAFFER: <small>He's only in that one position.</small></p> <p>12 they're not seeking --</p> <p>13 MR. FRANK: They're not seeking all of the professional</p> <p>14 employees of the MSO.</p> <p>15 HEARING OFFICER SCHAFFER: Okay.</p> <p>16 MR. FRANK: They're seeking physician assistants, but not</p> <p>17 registered nurses. Under the Board's rules, I don't think they</p> <p>18 can split the desire to represent some professionals but not</p> <p>19 other professionals.</p> <p>20 HEARING OFFICER SCHAFFER: Okay.</p> <p>21 MR. FRANK: MSO at King's County is a New York for profit</p> <p>22 limited liability corporation that provides services to</p> <p>23 physician practices, and urology is a physician practice. All</p> <p>24 of the employees of urology are employed at 1 Prospect Park</p> <p>25 West, not at the hospital.</p>

Page 80	Page 82
<p>1 They do not perform any services at New York Methodist 2 Hospital. Their pay and benefits are provided by the MSO 3 Urology. And the employees are supervised by MSO Urology 4 supervisors and managers. 5 MSO Urology maintains its own labor relations and human 6 resources practice departments. And most importantly, the 7 community of interest is there's no interchange -- excuse me, 8 between MSO Urology employees and hospital employees. 9 The union's claim that it seeks a residual professional 10 and non-professional unit to an existing mixed profession, non- 11 professional unit is clearly erroneous on its face. As I've 12 previously indicated, the union does not represent physician 13 assistants, in terms of other professionals such as nurses, 14 they do not represent nurses at the hospital. 15 HEARING OFFICER SCHAFFER: <small>In the physician assistant as</small> 16 RN? 17 MR. FRANK: No, the physician assistant is a physician 18 that's duly licensed by the State of New York, they can 19 prescribe and diagnose and treat patients as -- under the 20 guidance and supervision of a physician. 21 HEARING OFFICER SCHAFFER: Okay. 22 MR. FRANK: I don't want to -- 23 HEARING OFFICER SCHAFFER: <small>We'll get into it.</small> 24 MR. FRANK: Many people would say it's a more advanced 25 practice than a registered nurse.</p>	<p>1 ask that this point has been made, it's on the record in the 2 other case, and I understand. 3 MR. FRANK: Okay. The other case is not -- 4 HEARING OFFICER SCHAFFER: <small>And you're talking about the</small> 5 notice of the comments in the other case. We also have your -- 6 MR. FRANK: With all due respect -- 7 HEARING OFFICER SCHAFFER: <small>...agrees with the judge</small> 8 asking that you limit it to -- the point about the physicians 9 assistants is important. If you could stick to those kinds of 10 things where there's a distinction between urology and what is 11 specific to the urology department, as opposed to the general. 12 I understand and you've made the point about the acute 13 care hospital. It's been noted, it is an issue in this matter, 14 in this case. 15 MR. FRANK: In support of what I was saying, we cited the 16 case of Hospital Corporation of America which I think is at 17 17 RC 12076. The petition is also defective because the employees 18 working at MSO Urology do not share any community of interest 19 with hospital employees in the represented community. 20 The listed job classifications do not have any interchange 21 whether it's covering for vacations or job functions with 22 hospital employees. Their responsibilities and duties are 23 limited to assisting the physicians in the urology practice and 24 they go to the locations of the urology practice to perform 25 their duties. They do not do so in the hospital.</p>
Page 81	Page 83
<p>1 HEARING OFFICER SCHAFFER: <small>Okay. So return of the -- I</small> 2 would just ask that you limit your remarks to the novel issues 3 in the case of the New York urology department. I understand 4 your position statement is in the record and I -- so. 5 MR. FRANK: I'm doing this because I would like to hear 6 what the union disagrees with in this case. 7 HEARING OFFICER SCHAFFER: <small>I agree and that's why we are</small> 8 get to those issues, but I just -- 9 MR. FRANK: Well, I would think we would want a complete 10 record in this case because and that's what I'm getting to. 11 The Board's acute care health nor its rules in unit 12 determination in an acute care hospital have never been held to 13 be appropriate to a doctor's office. 14 And in this case, the union is seeking to append employees 15 of a physicians' practice to a hospital unit. And I believe 16 Board law precludes doing that. And I am not aware of any 17 precedent where the staff of a physician's office have been 18 determined to be part of an acute care unit at a hospital. 19 And what the union is seeking here is to merge the 20 employees of a physicians' practice, which is not part of the 21 hospital operations or Article 28, that's a separate entity 22 with employees in an acute care hospital. And I think on its 23 face, the Board has held that that is not to be done in 24 healthcare. 25 HEARING OFFICER SCHAFFER: <small>And then again, the judge is</small></p>	<p>1 A residual unit of just the MSO urology employees is also 2 inappropriate under the Board law because an incumbent union at 3 the hospital is precluded from creating a multiple separate 4 unit. And here, the union is seeking two residual units to 5 quote their units at the hospital. At St. John's Hospital, the 6 unions two petitions in this, one in this case, and the one in 7 the other case, 398, illustrates the proliferation of unit 8 problem that exists here. 9 In addition, this is somewhat to the other case, work 10 precedent does not include employees in the unit if they do not 11 have the same employer, absent consent. And to the extent that 12 the union seeks to raise a question concerning representation, 13 employees of the MSO and of the hospital, since they are 14 separate corporations, I believe the petition is defective. 15 I have already addressed the professional assistance, to 16 the extent that notwithstanding the law, they're included in 17 any unit, they would be entitled to a self-determination 18 election because professionals may not be included in a non- 19 professional unit. 20 And I believe in the other case, the issues of the 21 professions were resolved, and they were not seeking 22 professionals. But in this case, the physician assistants are 23 professional employees who may not be included in a non- 24 professional unit without a self-determination election. 25 HEARING OFFICER SCHAFFER: <small>Okay. So that's your thought</small></p>

<p style="text-align: right;">Page 84</p> <p>1 that. So we have the job classifications so that everybody can 2 look at attachment B of the statements of position, I just want 3 to go through the job classifications that are going to be at 4 issue here. 5 The office -- I'm sorry, the -- just to clarify the 6 clinical nurse, is that an LPN? No, the clinical nurse. 7 MS. WILCOX: Is an RN. 8 HEARING OFFICER SCHAFFER: Is an RN. 9 MS. WILCOX: Under 1199 petition it's a clinical nurse. 10 HEARING OFFICER SCHAFFER: <small>Okay. So the position that</small> 11 the clinical nurse has been put on this list, does the employer 12 that union is not seeking RN -- I'm sorry, does MSO and New 13 York Methodist understand that? 14 MR. FRANK: MSO agrees that the RN should not be included. 15 HEARING OFFICER SCHAFFER: <small>Okay. And the union is seeking</small> 16 representation that it doesn't want the RNs. 17 MR. FRANK: Well, that's not what the petition says. The 18 petition says professional and non-professional. 19 HEARING OFFICER SCHAFFER: Okay. 20 MR. FRANK: So are they amending the petition? 21 MS. WILCOX: In terms of the job titles, office assistant, 22 administrative assistant, patient assistant, licensed practical 23 nurse, medical assistant, clinical assistant and physician 24 assistant are the job titles that -- 25 HEARING OFFICER SCHAFFER: <small>Okay. So that goes to clarify</small></p>	<p style="text-align: right;">Page 86</p> <p>1 MR. FRANK: Physician assistants are certainly not 2 included in any 1199 unit at New York Methodist Hospital. 3 HEARING OFFICER SCHAFFER: Okay. 4 MS. WILCOX: So maybe I misunderstand, are you taking the 5 position that with respect to the -- some of the employees who 6 work at New York Hospital that are represented by 1199, is it 7 your position that none of them are professional employees? 8 MR. FRANK: I don't understand the question. 9 HEARING OFFICER SCHAFFER: <small>Accorded to the position</small> 10 that 1199 at New York Methodist does not represent professional 11 employees or is it still that you don't know? 12 MR. FRANK: What I don't know is they've been certified 13 for a certified professional unit. They may have, I just don't 14 have that. 15 MS. WILCOX: With respect to the social workers, are you 16 taking the position that social workers are not professional 17 employees at Methodist Hospital? 18 MR. FRANK: My understanding is the social workers are in 19 the technical unit, but I'm not positive about it. I just 20 don't know the answer. 21 HEARING OFFICER SCHAFFER: <small>Okay. Continuing to find out</small> 22 for tomorrow? 23 MR. FRANK: It's in the Board certification, yes. 24 HEARING OFFICER SCHAFFER: Okay. 25 MR. FRANK: No, if they're doing it today, I'm not going</p>
<p style="text-align: right;">Page 85</p> <p>1 it does not include the clinical nurse. 2 MS. WILCOX: That is correct. 3 HEARING OFFICER SCHAFFER: <small>So if we include it as one of</small> 4 the excluded job titles that would be -- 5 MS. WILCOX: Acceptable to the union. 6 HEARING OFFICER SCHAFFER: <small>--- acceptable. Okay.</small> 7 In terms of the question about the physician's assistants 8 being professionals, does 1199 represent any physician's 9 assistants at New York Methodist? 10 MS. WILCOX: No. 11 HEARING OFFICER SCHAFFER: <small>Okay. And the union</small> 12 acknowledges that that would -- because the professionals -- 13 now, are there -- now, I know this is a point of -- it seemed 14 like yesterday there was some point of dispute of whether there 15 were professionals in the 1199 unit at New York Methodist. The 16 union seemed to be taking the position that there were 17 professionals -- 18 MS. WILCOX: That is correct. 19 HEARING OFFICER SCHAFFER: <small>--- in that case. And the New</small> 20 York Methodist was taking the position that there were not 21 professionals in that unit or that you didn't know if they were 22 in the unit? 23 MR. FRANK: I said I think I didn't know, but I was 24 positive that they did not represent physician assistants. 25 HEARING OFFICER SCHAFFER: Okay.</p>	<p style="text-align: right;">Page 87</p> <p>1 to be able to find out. 2 MS. WILCOX: I would want to know because if the -- 3 HEARING OFFICER SCHAFFER: <small>Okay. --- position making it</small> 4 problem is, you're making the assertion that it's based on 5 something that you don't know, it's hard to argue it one way or 6 the other. 7 MR. FRANK: Social workers have nothing to do with this 8 case. 9 MS. WILCOX: Well, you -- 10 HEARING OFFICER SCHAFFER: <small>It goes to the question of</small> 11 whether the union represents professionals at 1199 which you've 12 just asserted that you're not sure, but that might pose a 13 problem to putting them in the unit. 14 MR. FRANK: They don't represent physician assistants I 15 know that. 16 HEARING OFFICER SCHAFFER: Okay. 17 MS. WILCOX: I still would need to know whether the 18 hospital's position is as to whether they're protection 19 employees represented by 1199. 20 HEARING OFFICER SCHAFFER: <small>So your position is that it is</small> 21 the answer is yes, if the social workers are professionals -- 22 MS. WILCOX: Then we believe -- the union believes we have 23 the right to then seek professional employees at urology, which 24 is specifically the physician assistants. 25 HEARING OFFICER SCHAFFER: <small>Okay. And then physician</small></p>

<p>Page 88</p> <p>1 assistants -- now I think I asked this question on the other 2 record, but are there physician's assistants at New York 3 Methodist represented by a union? I believe the answer 4 yesterday was no. 5 MR. FRANK: That is correct. 6 HEARING OFFICER SCHAFFER: <small>Okay. So --</small> 7 MR. FRANK: Surely not by 1199. 8 HEARING OFFICER SCHAFFER: <small>But not by any other unit</small> 9 either. 10 MR. FRANK: That is my understanding. 11 HEARING OFFICER SCHAFFER: <small>All right. So --</small> 12 MS. WILCOX: And are there physician's assistants at 13 Methodist Hospital? 14 HEARING OFFICER SCHAFFER: <small>Are there?</small> 15 MR. FRANK: I believe the answer is yes. 16 HEARING OFFICER SCHAFFER: <small>Okay. Non-nurse of those</small> 17 positions with the exception of the physician assistant appear 18 -- are these technical employees? Let's go through them. I'm 19 going to ask two questions about each job classification listed 20 on here whether they're technical and whether they're 21 professional or non-professional. 22 So it's the administrative assistant, is that a technical 23 position? 24 MR. FRANK: I believe that is a clerical. 25 HEARING OFFICER SCHAFFER: <small>Clerical, okay, a non-</small></p>	<p>Page 90</p> <p>1 MR. FRANK: Patient assistant clerical? 2 (Counsel confer) 3 MR. FRANK: That's a service employee. 4 MS. WILCOX: We would -- 5 HEARING OFFICER SCHAFFER: <small>Service?</small> 6 MS. WILCOX: Yeah. 7 HEARING OFFICER SCHAFFER: <small>And that's non-professional?</small> 8 MR. FRANK: Non-professional. 9 MS. WILCOX: Yes. 10 HEARING OFFICER SCHAFFER: <small>Okay. All right. We can</small> 11 through -- and the only other issue, and I just want to get 12 everybody's position on the record about -- oh, administrative 13 assistant, which we already -- is an administrative assistant. 14 Physician's assistant, so that I can get the employer's 15 position is that a physician's assistant is -- does everyone 16 agree that a physician's assistant is a technical professional 17 employee? 18 MS. WILCOX: Professional. 19 MR. FRANK: It's a professional, not technical. 20 HEARING OFFICER SCHAFFER: <small>Not technical, just</small> 21 professional. 22 MR. FRANK: Yes. So you understand for the record, a 23 physician's assistant can diagnose and treat patients at a very 24 high level. 25 HEARING OFFICER SCHAFFER: <small>Yes, but I just want to get</small></p>
<p>Page 89</p> <p>1 professional? 2 MR. FRANK: Non-professional. 3 HEARING OFFICER SCHAFFER: <small>Any 1199 --</small> 4 MS. WILCOX: We would agree to that representation. 5 HEARING OFFICER SCHAFFER: <small>Office assistant, is that</small> 6 technical or clerical? 7 MR. FRANK: Clerical. 8 HEARING OFFICER SCHAFFER: <small>Okay. Is that non-</small> 9 professional? 10 MR. FRANK: Yes. 11 HEARING OFFICER SCHAFFER: <small>Ms. Wilcox?</small> 12 MS. WILCOX: We would agree. 13 HEARING OFFICER SCHAFFER: <small>Okay. Clinical assistant, is</small> 14 that clerical or technical? 15 MR. FRANK: That's an LPN. 16 HEARING OFFICER SCHAFFER: <small>The clinical assistant?</small> 17 MS. WILCOX: Yeah, clinical assistant is an LPN. 18 HEARING OFFICER SCHAFFER: <small>And that's technical?</small> 19 MS. WILCOX: And that would be a technical position. 20 HEARING OFFICER SCHAFFER: <small>Okay. Both parties in</small> 21 agreement on that? 22 (No response) 23 HEARING OFFICER SCHAFFER: <small>Patient assistant is the only</small> 24 other one here I think we haven't gone through, patient 25 assistant, is that technical or clerical?</p>	<p>Page 91</p> <p>1 everyone's position instead of -- so the -- so there is an 2 outstanding question as to whether -- so there's no question. 3 All right. There's no question -- 4 MR. FRANK: The clinical assistant -- 5 HEARING OFFICER SCHAFFER: <small>There's no question that</small> 6 physician's assistants are not represented by 1199 at the 7 hospital, there seems to be an open question as to whether 8 professional employees at New York Methodist are represented by 9 1199, which seems to hinge on social workers are professional 10 or not. 11 MS. WILCOX: There's pharmacists and dieticians, I mean, 12 those are the ones that, you know, I've never seen a case where 13 a social worker nor a -- a dietician to be -- not to be a 14 professional employee. 15 HEARING OFFICER SCHAFFER: Okay. 16 MR. FRANK: And we don't think physician's assistants 17 could be appended to that as a residual unit, no matter what 18 they are. 19 HEARING OFFICER SCHAFFER: <small>Okay. I think we're going</small> 20 limit the use of the word residual, because I think we're 21 operating on different understandings of what residual means. 22 But once again, the 1199 position is it would like these 23 employee -- the urology center employees to become part of the 24 larger unit of employees at New York Methodist, that's the -- 25 is that correct?</p>

Page 92	Page 94
<p>1 MS. WILCOX: Yes.</p> <p>2 HEARING OFFICER SCHAFFER: <small>Not to -- the -- for some</small></p> <p>3 reason the term is residual, it means more than remainder as</p> <p>4 opposed to creating a new unit.</p> <p>5 MR. FRANK: So the record is clear, they want to add</p> <p>6 physician assistants to a unit with a hospital that does not</p> <p>7 include physician assistants. Their unit does not include</p> <p>8 physician assistants.</p> <p>9 HEARING OFFICER SCHAFFER: Right.</p> <p>10 MR. FRANK: So they want to add physician assistants that</p> <p>11 work at urology to their bargaining unit at the hospital that</p> <p>12 does not include physician assistants.</p> <p>13 HEARING OFFICER SCHAFFER: <small>Okay. Fundamental that</small></p> <p>14 That's very clear.</p> <p>15 MR. FRANK: Okay. Even if that was going to happen, they</p> <p>16 still need a self-determination election, because they're</p> <p>17 professionals.</p> <p>18 HEARING OFFICER SCHAFFER: Okay.</p> <p>19 MR. FRANK: And the fact that they represent social</p> <p>20 workers who may be professionals, it's still inappropriate for</p> <p>21 them to claim a category that they don't represent in the unit</p> <p>22 they want to append them to. They're not asking to bargain for</p> <p>23 them, they want to put them in a bargaining unit where there's</p> <p>24 no other workers in their category. And I would think that</p> <p>25 should be dismissed on its face because they can't be a</p>	<p>1 But we are -- the union is prepared to proceed as I say in</p> <p>2 the unit or combination of those, with respect to who the</p> <p>3 employer is. With respect to the physician assistant, you</p> <p>4 know, we -- because we believe that we represent some</p> <p>5 professional employees, we do believe that we can seek to</p> <p>6 represent the physician assistants to be in part of -- with</p> <p>7 respect to other employees as well, and provided they do get</p> <p>8 the opportunity to vote, pursuant to -- and with respect to</p> <p>9 that issue, if the finding is that the physician assistants are</p> <p>10 deemed to be a separate unit at urology, we would proceed to an</p> <p>11 election with respect to physician assistants in a separate</p> <p>12 unit.</p> <p>13 HEARING OFFICER SCHAFFER: Okay.</p> <p>14 MS. WILCOX: And the -- just so -- we took the position</p> <p>15 yesterday as we are in this case that based upon how the</p> <p>16 employer, New York Methodist Hospital, has created itself in</p> <p>17 terms of having both a hospital and part of the practice is to</p> <p>18 include non-acute services that that could be deemed to be part</p> <p>19 of New York Hospital, and that the union can appropriately seek</p> <p>20 to represent employees who don't work in the main frame of the</p> <p>21 hospital.</p> <p>22 HEARING OFFICER SCHAFFER: <small>Okay. All right. All right.</small></p> <p>23 time, I'd like to --</p> <p>24 MR. FRANK: Can I just say a couple of things.</p> <p>25 HEARING OFFICER SCHAFFER: <small>Understand -- I do understand</small></p>
Page 93	Page 95
<p>1 residual unit or self-determination unit. You can't append</p> <p>2 people where the union doesn't represent as a category to that</p> <p>3 unit.</p> <p>4 HEARING OFFICER SCHAFFER: Okay.</p> <p>5 MR. FRANK: And I would ask you to just delete them so we</p> <p>6 could simplify this hearing.</p> <p>7 MS. WILCOX: Well, the union is not going to delete them.</p> <p>8 The union's position is that they would be entitled to an</p> <p>9 election and as you say on the record in the prior -- in the</p> <p>10 other case yesterday, that without repeating everything that</p> <p>11 was said -- that I said in the prior response to the employer,</p> <p>12 would make similar arguments as its stated position in the 9-8</p> <p>13 case, the union is, you know, would proceed to election under</p> <p>14 any circumstances in this matter, regardless of what the</p> <p>15 decision is with respect to, that they become part of the New</p> <p>16 York Methodist Hospital's unit, and certainly New York Hospital</p> <p>17 -- New York Methodist and MSO received an election as well,</p> <p>18 under, you know, the single employer theory, and with respect</p> <p>19 to -- I mean, what I find if they're not deemed to be a single</p> <p>20 employer or New York Methodist is not deemed to be the sole</p> <p>21 employer, then our alternative position is that they -- New</p> <p>22 York Methodist and MSO are joint employers and we do recognize</p> <p>23 the fact that unless we get the consent of the employers to</p> <p>24 include them into New York Methodist unit, that that poses a</p> <p>25 problem.</p>	<p>1 the back and forth, I would like you to limit it because some</p> <p>2 of this is legal argument that's going to be best be made in</p> <p>3 the closing statements. We're not going to -- but in terms of</p> <p>4 response, so I'm going to let you respond, but I'd just to like</p> <p>5 you to just keep that in mind, but we're going to give you an</p> <p>6 opportunity to flesh out the legal arguments.</p> <p>7 MR. FRANK: Would we be able to write briefs in this case?</p> <p>8 HEARING OFFICER SCHAFFER: <small>Remember the -- some say yes</small></p> <p>9 to be doing briefs, but there is an opportunity, there is an</p> <p>10 opportunity to submit a memorandum of law on the last day of</p> <p>11 the hearing, that can become -- that can be submitted that's</p> <p>12 pursuant to the new rules, so there will be an opportunity for</p> <p>13 oral argument, as well -- an oral statement, as well as</p> <p>14 submitting an accompanying memorandum of law.</p> <p>15 I just want to point --</p> <p>16 MR. FRANK: And let me say on the record then --</p> <p>17 HEARING OFFICER SCHAFFER: Yes.</p> <p>18 MR. FRANK: -- okay, limiting --</p> <p>19 MS. WILCOX: We are on the record.</p> <p>20 MR. FRANK: Yes, I am. Limiting what we can say and</p> <p>21 articulating our positions, and then saying that we can only</p> <p>22 submit something on the last day of the hearing, really</p> <p>23 deprives us of the ability to practice law and represent our</p> <p>24 clients.</p> <p>25 HEARING OFFICER SCHAFFER: <small>The just pointing out that</small></p>

Page 96	Page 98
<p>1 responding to the legal argument that Ms. Wilcox is making at 2 this time, we're going to allow you to make -- the statements 3 as to the legality at the end as opposed to right now in the 4 opening. 5 MR. FRANK: Okay. One of -- in response to what Ms. 6 Wilcox has said is that I believe Board law would require the 7 union, if it's seeking residual employees, to seek all residual 8 employees who are not represented at Methodist Hospital. 9 HEARING OFFICER SCHAFFER: <small>That's only if you don't use</small> 10 not use the word -- 11 MR. FRANK: They can't pick and choose. 12 HEARING OFFICER SCHAFFER: <small>...because because I think</small> 13 we're using it incorrectly. 14 MR. FRANK: Well -- 15 HEARING OFFICER SCHAFFER: <small>That's correct about residual</small> 16 unit, if that's truly what the union is asking for. Though the 17 union's made it clear that by asking -- by explaining that they 18 want to put the employees into the larger unit that's a more 19 self-determination election and not a traditional residual unit 20 -- 21 MR. FRANK: That's not what the petition says, though. I 22 mean, I understand that -- how -- 23 HEARING OFFICER SCHAFFER: <small>Well, we're explained that</small> 24 MR. FRANK: Okay. 25 HEARING OFFICER SCHAFFER: <small>That's only if you don't use the word --</small></p>	<p>1 employed by Methodist Hospital. 2 HEARING OFFICER SCHAFFER: <small>That's about Methodist</small> 3 The joint employer -- there's a question of single employer or 4 joint employer and whether the employees is a matter for this 5 hearing, I've directed that, we don't need more on the record 6 at this time. 7 MR. FRANK: The service employee at Methodist Hospital, 8 there are standard board units in that the LPN would only be in 9 a technical unit, which would be separate from the clerical 10 employees, and the service employee would be in the service 11 unit, so that this is -- would not be one unit if the union is 12 right, they would have to be divided among technical, service 13 and clerical. 14 HEARING OFFICER SCHAFFER: <small>This goes to what we want</small> 15 talking about yesterday, the cert that's in, and we'll take 16 administrative notice that there is a certification of a 17 technical unit at New York Methodist that was put in the record 18 in the other case, we'll take administrative notice of that in 19 this case, which goes to your point then at New York Methodist 20 there are multiple certified acute care units, and that it 21 would be more appropriate in New York Methodist position were 22 we to find that New York Methodist was the employer, for the 23 employees to be slotted into the units that the Board has 24 already certified in acute care -- 25 MR. FRANK: And they would to get -- each group would get</p>
Page 97	Page 99
<p>1 clarify that on the record. 2 MR. FRANK: I still think they're seeking a residual 3 group, that's what they're seeking with the physician 4 assistants, but they don't want to seek all of them. They want 5 to seek in their theory of a single employer, which is 6 incorrect, they want to take two of them and say, they can be a 7 residual unit, but they don't want to see the other physician 8 assistants who are employed at Methodist Hospital. They want 9 to do another split of the employee group. 10 Okay. Board law in St. John's -- what's the case law in 11 this, 307 120 says Board law prohibits that. They're not 12 seeking all of the physician's assistants, they just want to 13 cherry-pick two people. That is proliferation of units, that 14 is what the Board has said you can't do. 15 HEARING OFFICER SCHAFFER: <small>Okay. All right. So let's</small> 16 start with -- 17 MR. FRANK: Can I finish or? 18 HEARING OFFICER SCHAFFER: <small>You have --</small> 19 MR. FRANK: If you want me to stop, I'll stop, but I have 20 more to say. 21 HEARING OFFICER SCHAFFER: <small>On what matters?</small> 22 MR. FRANK: MSO Urology -- 23 HEARING OFFICER SCHAFFER: <small>So the asking you to explain</small> 24 to me what the matters are that you'd like to address. 25 MR. FRANK: Yes, none of the employees at MSO Urology are</p>	<p>1 a separate election, do you want to go into that unit. 2 HEARING OFFICER SCHAFFER: <small>Okay. I understand</small> 3 MR. FRANK: And I reiterate everything that's set forth in 4 the MSO statement of position. 5 HEARING OFFICER SCHAFFER: Okay. 6 MR. FRANK: Now, the hospital also statement of position, 7 which we believe has now been marked as Board Exhibit 4; is 8 that correct? 9 HEARING OFFICER SCHAFFER: <small>Correct. I am. And today</small> 10 administrative notice of the record that was opened in the 11 other case and the arguments set forth there, to the extent 12 that you're -- I'm just asking to the extent that you're making 13 comments now, just keep in mind most of them are already on the 14 record, but continue. 15 MR. FRANK: The hospital is not the employer of the 16 employees who support physician practices. The petition 17 erroneously identifies the employer as New York Methodist 18 Hospital. MSO at King's County LLC is the sole employer of the 19 employees described in the petition, which seeks a residual 20 unit of employees at the hospital. 21 The hospital has a long standing collective bargaining 22 relationship with the union. It is a member of the League of 23 Voluntary Hospitals, and as a member of their league, that is 24 bound to the league 1199 collective bargaining agreement. It 25 does not consent to be a joint employer or jointly bargained</p>

<p style="text-align: right;">Page 100</p> <p>1 with the union.</p> <p>2 The employees sought in the petition, and listed on the</p> <p>3 schedule, which the region asked the hospital to file, do not</p> <p>4 perform work at the hospital. The hospital does not provide</p> <p>5 them with pay, with benefits. The hospital has recognized 1199</p> <p>6 to represent some of its employees in Board determined units.</p> <p>7 The hospital maintains its own labor relations and human</p> <p>8 resource departments, and there's no interchange between</p> <p>9 hospital employees and the MSO Urology employees.</p> <p>10 Urology employees assist the physicians who practice</p> <p>11 urology in running their office and running their medical</p> <p>12 practices. The medical practice is not part of hospital</p> <p>13 operations, it is separate and distinct.</p> <p>14 HEARING OFFICER SCHAFFER: <small>Who pays the doctors?</small></p> <p>15 MR. FRANK: The patients.</p> <p>16 HEARING OFFICER SCHAFFER: <small>Who are the doctors? Are the</small></p> <p>17 doctors -- do the doctors have --</p> <p>18 MR. FRANK: The doctors, I believe, there are many</p> <p>19 arrangements. They may be in a professional corporation, they</p> <p>20 may have other arrangements, they may be employed by the</p> <p>21 hospital.</p> <p>22 HEARING OFFICER SCHAFFER: <small>Do they have admitting</small></p> <p>23 privileges? Are they connected formally with New York</p> <p>24 Methodist, the doctors?</p> <p>25 MR. FRANK: They may have privileges. Privileges are --</p>	<p style="text-align: right;">Page 102</p> <p>1 what goes on inside the hospital.</p> <p>2 Now, the physicians schedule patients, they make -- they</p> <p>3 go see their patients, they take them into examining rooms, and</p> <p>4 they do what physicians do. And physician assistants --</p> <p>5 HEARING OFFICER SCHAFFER: <small>Are they not employed</small></p> <p>6 provided to the doctors through the MSO?</p> <p>7 MR. FRANK: Yes, that's exactly what they do.</p> <p>8 HEARING OFFICER SCHAFFER: Okay.</p> <p>9 MR. FRANK: And the physician assistants do triage, in</p> <p>10 other words, they're a higher level of skill where they can</p> <p>11 make some diagnoses, they can prescribe medicines, and they can</p> <p>12 assist the physician, if he's tied up doing something else.</p> <p>13 They have a collaborative arrangement, I hesitate to say</p> <p>14 at a higher skilled level than nurses. In other words, nurses</p> <p>15 follow doctor orders and use independent judgment. Physician</p> <p>16 assistants can actually write orders --</p> <p>17 HEARING OFFICER SCHAFFER: Okay.</p> <p>18 MR. FRANK: -- and prescribe medicines. But this is all</p> <p>19 in the practice of the physicians.</p> <p>20 Now, some patients may have come from the hospital or some</p> <p>21 may be going to the hospital in the future, but it's really</p> <p>22 going to see the physician, that's what the physician practice</p> <p>23 is. And they have their location where they do it.</p> <p>24 HEARING OFFICER SCHAFFER: Okay.</p> <p>25 MR. FRANK: From the hospital's point of view, is under</p>
<p style="text-align: right;">Page 101</p> <p>1 HEARING OFFICER SCHAFFER: <small>Are the patients that the</small></p> <p>2 doctors are seeing at Prospect Park coming -- are they former</p> <p>3 patients at New York Methodist?</p> <p>4 MR. FRANK: Not necessarily.</p> <p>5 HEARING OFFICER SCHAFFER: <small>Are they coming to Prospect P</small></p> <p>6 Prospect Place as part of their follow-up care?</p> <p>7 MR. FRANK: No.</p> <p>8 HEARING OFFICER SCHAFFER: No?</p> <p>9 MR. FRANK: Not necessarily. They could have. Doctor --</p> <p>10 I guess I have to explain.</p> <p>11 HEARING OFFICER SCHAFFER: <small>Well, we have to get witness</small></p> <p>12 testimony too.</p> <p>13 MR. FRANK: Well, physicians practice medicine, okay, they</p> <p>14 have their patients, they have their relationships with the</p> <p>15 patients. Much of what they do is in their office. That has</p> <p>16 nothing to do with the hospital.</p> <p>17 In some situations, patients need to visit a hospital for</p> <p>18 additional services, that's what the hospital does. Billing,</p> <p>19 hospitals bill for hospital services, physicians bill for</p> <p>20 physician's services.</p> <p>21 HEARING OFFICER SCHAFFER: Okay.</p> <p>22 MR. FRANK: Okay. Physicians who have private practices</p> <p>23 that can make arrangements to get services provided to their</p> <p>24 offices, clerical staff, and that's what an MSO does, is to</p> <p>25 assist them in running their office, which is different than</p>	<p style="text-align: right;">Page 103</p> <p>1 the Board's acute care rules, it's very explicit that employees</p> <p>2 who are not employees of the acute care hospital may not be</p> <p>3 appended to hospital units. And I think what he union is</p> <p>4 seeking to do here by its claim, is to amesh the hospital --</p> <p>5 the acute care hospital in -- with entities that are not an</p> <p>6 acute care hospital.</p> <p>7 HEARING OFFICER SCHAFFER: Okay.</p> <p>8 MR. FRANK: This is something the Board specifically</p> <p>9 rejected, that physician practices were not to be commingled</p> <p>10 with acute care hospitals. This is different than the wound</p> <p>11 care center.</p> <p>12 I would also say that any unit can argue would be at the</p> <p>13 urology practice should be limited to a service and clerical</p> <p>14 employees of MSO urology practice at 1 Prospect Park. I say</p> <p>15 that because this would be an interesting and easy solution.</p> <p>16 If the clerical and service employees, and if the union agreed,</p> <p>17 we could have an election and they could decide if they want to</p> <p>18 be represented or not.</p> <p>19 That unit would exclude the technical employees because</p> <p>20 under Board law, there should be a separate unit. If we were</p> <p>21 only dealing with the --</p> <p>22 HEARING OFFICER SCHAFFER: <small>Would that really be true if they</small></p> <p>23 were an acute care hospital, or would that be true of a non-</p> <p>24 acute situation as well? If we grant that MSO is not acute,</p> <p>25 couldn't the union have everyone at the non-acute location in</p>

Page 104	Page 106
<p>1 the same unit, with the exception of professionals get assigned 2 to an election?</p> <p>3 MR. FRANK: That would be worthy of consideration. People 4 are looking for an easy solution to these problems, that is a 5 possibility. But if I understand the Board's rules, even in 6 the non-acute care, you don't mix the technical with the 7 service and clerical.</p> <p>8 HEARING OFFICER SCHAFFER: Okay.</p> <p>9 MR. FRANK: But we'd be open to a conversation on that 10 topic.</p> <p>11 HEARING OFFICER SCHAFFER: Okay.</p> <p>12 MR. FRANK: I also would note that one person units are 13 not permitted. And to the extent that you have one service 14 person in a non-acute context, I could understand if the Board 15 said, that the service should be combined with the clerical, so 16 a single service employee is not deprived of the opportunity to 17 participate.</p> <p>18 HEARING OFFICER SCHAFFER: <small>And just to clarify, the</small> 19 service person is patient assistant.</p> <p>20 MR. FRANK: Right.</p> <p>21 HEARING OFFICER SCHAFFER: Okay.</p> <p>22 MR. FRANK: We wouldn't want to seek one person to be 23 disenfranchised.</p> <p>24 HEARING OFFICER SCHAFFER: <small>Right, right, I understand</small></p> <p>25 MR. FRANK: So in the context, if it was just an MSO</p>	<p>1 should be held or not held, there should be an election, which 2 is a question concerning representation. And that is based on 3 whether or not there's a community of interest between the 4 employees in the petitioned for unit. In each case here, the 5 employees of MSO Urology had a community of interest, they 6 should be entitled to have an election to decide if they want 7 to be represented by a union or not.</p> <p>8 We made the same argument in Luden Care, those employees 9 have a community of interest, they should be allowed to decide 10 if they want to have an election to vote for union 11 representation or not.</p> <p>12 These are two practices of MSO, unit seeking -- no. To 13 represent two separate units, and the hospital and the MSO both 14 say, why not let those employees have a vote to decide whether 15 or not they want to be represented or not. They have a 16 community --</p> <p>17 HEARING OFFICER SCHAFFER: <small>I understand your point</small></p> <p>18 MR. FRANK: -- and the joint employer issue doesn't deal 19 with community of interest. It doesn't matter who the -- the 20 joint employer issue doesn't really matter if absent consent of 21 two employers, they can't be put into one bargaining unit.</p> <p>22 HEARING OFFICER SCHAFFER: <small>Right, that the union's</small> 23 contention is that New York Methodist is the employer of the 24 employees, in which -- and the New York Methodist contention as 25 you pointed out is they're not, so that's why we're here, so</p>
Page 105	Page 107
<p>1 election, I would -- the hospital is the service person join 2 the clerical.</p> <p>3 HEARING OFFICER SCHAFFER: Got it.</p> <p>4 MR. FRANK: <small>Again we say hospital corporation for the same</small> 5 reasons the MSO cited it. On the residual unit issue, 6 Methodist Hospital's position is this is not an appropriate 7 petition for residual units. The hospital has seen the union 8 repeatedly ask for new residual units, and this is an 9 inappropriate proliferation of units that is not appropriate 10 for an acute care hospital under the Board's rules.</p> <p>11 Methodist Hospital has a longstanding relationship with 12 the defined units, and the union is now trying to add a half 13 dozen employees of somebody else to a hospital unit, without 14 the hospital's consent. From strictly the hospital's point of 15 view, not the MSOs, that's not an appropriate petition.</p> <p>16 And from the hospital's perspective, the petition should 17 be dismissed because none of the employees were identified in 18 the unit are hospital employees as a matter of law.</p> <p>19 HEARING OFFICER SCHAFFER: Okay.</p> <p>20 MR. FRANK: And the last, to clarify this, I don't think 21 the issue the union has teed up of single employer/joint 22 employer and the relationship between the two entities has 23 anything to do with whether there's a question concerning 24 representation.</p> <p>25 As I understand the Board's rules on when an election</p>	<p>1 we're going to -- I would like to get out --</p> <p>2 MR. FRANK: There's no community of interest --</p> <p>3 HEARING OFFICER SCHAFFER: <small>So at this point, I understand --</small> 4 your point has been duly made, we take -- and we have your 5 statements of position as well in the record, which include 6 case law.</p> <p>7 So at this point, Ms. Wilcox, if you want, I want to give 8 you a brief chance to respond on the record if you feel the 9 need to, and I know you've kind of responded already to MSO's 10 points, so if there's additional points you want to make, I'd 11 like you to do it briefly so we can get to the witness.</p> <p>12 MS. WILCOX: Yes, thank you. Yeah, the -- I mean, the 13 union -- the division of the hospitals are similar to the 14 position of MSO, and so I won't really repeat what was -- my 15 response other than to say with respect to the union, we 16 believe that the service, clerical and technical employees and 17 professional employees should have the opportunity to vote, and 18 that to take the position that the technical employees should 19 be excluded is not appropriate, nor is the -- and it seems that 20 the hospital is taking the position the professional employees 21 should be excluded as well.</p> <p>22 And so we think that the unit we're talking about 15, 16 23 people should be able to be included employees and that the 24 exclusions would only be for the clinical nurse and you know, 25 in regards to supervisors as defined by the Act.</p>

Page 108	Page 110
<p>1 HEARING OFFICER SCHAFFER: <small>Can I just ask what year --</small></p> <p>2 would you -- if the Board directed an election to have each of</p> <p>3 the employees -- if the Board were to find that New York</p> <p>4 Methodist either is the employer, is a single employer with MSO</p> <p>5 and directed an election on these employees, would the union be</p> <p>6 okay with the type of election that I'd previously described in</p> <p>7 terms of the employees voting to join the specific</p> <p>8 classifications, the technical classification at MSO, the</p> <p>9 technical employees joining the technical classification, the</p> <p>10 professional employees joining the professional classification</p> <p>11 at New York Methodist, and going into those separate bargaining</p> <p>12 units that have already been certified by the Board?</p> <p>13 MS. WILCOX: Yes, we would consider that.</p> <p>14 HEARING OFFICER SCHAFFER: <small>Okay. All right. Okay. So --</small></p> <p>15 this point -- do you have anything else or --</p> <p>16 MS. WILCOX: No.</p> <p>17 HEARING OFFICER SCHAFFER: Okay.</p> <p>18 MS. WILCOX: We'll rely upon our previous statement as</p> <p>19 well as any positions that we provide at the end of the</p> <p>20 hearing.</p> <p>21 HEARING OFFICER SCHAFFER: <small>Okay. So let's get to the</small></p> <p>22 witnesses. Let me -- can we go off the record for just one</p> <p>23 second?</p> <p>24 (Recessed at 11:51 a.m.; reconvened at 1:15 p.m.)</p> <p>25</p>	<p>1 MSO and New York Methodist Hospital statement of position in</p> <p>2 both of those cases.</p> <p>3 HEARING OFFICER SCHAFFER: <small>Okay. That's fine. That's okay.</small></p> <p>4 that. All right. Would the union like to call --</p> <p>5 MR. FRANK: Can we ask the witnesses on facts be</p> <p>6 sequestered?</p> <p>7 HEARING OFFICER SCHAFFER: <small>Is it okay to do that?</small></p> <p>8 because they are non-adversarial.</p> <p>9 MR. FELSTINER: Okay. The union would call Maritz Flores-</p> <p>10 Shah.</p> <p>11 HEARING OFFICER SCHAFFER: <small>Okay. All right. Okay. So --</small></p> <p>12 Okay. Please raise your right hand.</p> <p>13 MARITZ FLORES-SHAH, WITNESS, SWORN</p> <p>14 HEARING OFFICER SCHAFFER: <small>Please raise your right hand.</small></p> <p>15 going to ask you to spell your name for the record, spell first</p> <p>16 and last.</p> <p>17 THE WITNESS: First name is M-a-r-i-t-z-a, last name is</p> <p>18 Flores, F-l-o-r-e-s-S-h-a-h.</p> <p>19 DIRECT EXAMINATION</p> <p>20 BY MR. FELSTINER:</p> <p>21 Q All right. Ms. Flores-Shah, thank you for coming today</p> <p>22 and yesterday and thank you for your patience.</p> <p>23 I want to start by asking you what your position is at the</p> <p>24 urology facility located at 1 Prospect Park West.</p> <p>25 A I am an administrative assistant to the doctors.</p>
Page 109	Page 111
<p>1 A F T E R N O O N S E S S I O N</p> <p>2 (Time Noted: 1:15 p.m.)</p> <p>3 HEARING OFFICER SCHAFFER: <small>So now -- just minutes of</small></p> <p>4 housekeeping before we get to the witnesses. So there is now --</p> <p>5 - we're on the record in the urology case, which is 172410.</p> <p>6 The record reflects or insofar as the MSO has put in the</p> <p>7 previous RC petition that was filed by the petitioner but was</p> <p>8 subsequently withdrawn and it's withdrawal was approved by the</p> <p>9 Regional Director, that is in the record as MSO 2, so that's RC</p> <p>10 petition 171639, which deals with the wound care. I'm sorry --</p> <p>11 MR. FRANK: As wound care?</p> <p>12 HEARING OFFICER SCHAFFER: <small>Okay. So now -- just minutes of</small></p> <p>13 wound care, so that's actually -- that's going to go in the</p> <p>14 other record, which I'll do. So urology is 171603, that's MSO</p> <p>15 2 in this record. So MSO 2 in each record is the previous</p> <p>16 petition filed in -- regarding that particular unit of</p> <p>17 employees.</p> <p>18 MR. FRANK: So you're marking the Regional Director's</p> <p>19 approval as a separate exhibit?</p> <p>20 HEARING OFFICER SCHAFFER: <small>No. It's all going to be in a</small></p> <p>21 packet.</p> <p>22 MR. FRANK: Okay.</p> <p>23 HEARING OFFICER SCHAFFER: Okay.</p> <p>24 MS. WILCOX: And I would like -- I don't have them here in</p> <p>25 the hearing room, but I want to submit the employer's -- well,</p>	<p>1 Q And where in the 1 Prospect Park West building is this</p> <p>2 urology facility located?</p> <p>3 A Suite C.</p> <p>4 Q If I refer to it as urology or urology facility</p> <p>5 throughout, it'll be clear to you that I'm referring to the</p> <p>6 facility located in Suite C, 1 Prospect Park -- excuse me, 1</p> <p>7 Prospect Park West, Brooklyn, New York?</p> <p>8 A Yes.</p> <p>9 Q Okay. When did you begin working at the urology facility?</p> <p>10 A I was hired in April of 2008.</p> <p>11 Q Did you submit an employment application?</p> <p>12 A I did not submit an application before. I filled out an</p> <p>13 application.</p> <p>14 Q Okay. Where did you fill out the application?</p> <p>15 A I went to the human resource office on 9th Street.</p> <p>16 Q Is that 435 9th Street?</p> <p>17 A Yes, second floor.</p> <p>18 Q Second floor. That's also the location of -- or that is</p> <p>19 the location of the New York Methodist human resources office,</p> <p>20 correct?</p> <p>21 A Yes.</p> <p>22 Q Who did you meet there, if anybody?</p> <p>23 A I met with Gina Cordero.</p> <p>24 HEARING OFFICER SCHAFFER: <small>Is it Gina Cordero?</small></p> <p>25 THE WITNESS: Uh-huh.</p>

<p style="text-align: right;">Page 112</p> <p>1 HEARING OFFICER SCHAFFER: <small>Cordero?</small></p> <p>2 Q And my apologies, around when was this?</p> <p>3 A April 2008.</p> <p>4 HEARING OFFICER SCHAFFER: <small>Union's Exhibit No. 1 identified</small></p> <p>5 title?</p> <p>6 THE WITNESS: Right now I don't, but back then she was</p> <p>7 like a human resource representative.</p> <p>8 HEARING OFFICER SCHAFFER: Okay.</p> <p>9 BY MR. FELSTINER:</p> <p>10 Q You stated that you filled out your application in that</p> <p>11 office?</p> <p>12 A At the site, yes.</p> <p>13 Q Did anybody interview you?</p> <p>14 A Gina Cordero.</p> <p>15 Q During this interview, did Ms. Cordero identify herself as</p> <p>16 being affiliated with MSO of King's County LLC?</p> <p>17 A No.</p> <p>18 Q Before you began work at the urology facility, did you</p> <p>19 have to undergo a drug test?</p> <p>20 A Yes.</p> <p>21 Q Where was that drug test performed?</p> <p>22 A At the employee health at New York Methodist Hospital.</p> <p>23 Q Did you have to undergo any vaccinations?</p> <p>24 A Yes.</p> <p>25 Q Where were those vaccinations performed?</p>	<p style="text-align: right;">Page 114</p> <p>1 I?</p> <p>2 MR. FELSTINER: Yes, please.</p> <p>3 (Union's Exhibit No. 1 identified)</p> <p>4 Q Can you identify what this is?</p> <p>5 A It is my ID.</p> <p>6 Q Is that the ID that you currently wear?</p> <p>7 A Yes.</p> <p>8 Q Is that the ID that you were -- the same identification</p> <p>9 card you were issued when you began working at the urology</p> <p>10 facility?</p> <p>11 A Yes, it is.</p> <p>12 MR. FELSTINER: <small>We move for the admission of this exhibit.</small></p> <p>13 HEARING OFFICER SCHAFFER: <small>Any objection?</small></p> <p>14 MR. FRANK: Is there a color stripe on the original ID</p> <p>15 card?</p> <p>16 THE WITNESS: I have it with me if you want to look at it.</p> <p>17 MR. FRANK: Yeah, I was just asking what color the stripe</p> <p>18 is?</p> <p>19 THE WITNESS: I don't think it has a stripe.</p> <p>20 HEARING OFFICER SCHAFFER: <small>What do you mean?</small></p> <p>21 MR. FRANK: On the ID card.</p> <p>22 HEARING OFFICER SCHAFFER: <small>Where --</small></p> <p>23 MR. FRANK: Is there a yellow stripe on the card?</p> <p>24 HEARING OFFICER SCHAFFER: <small>What does the card --</small></p> <p>25 MR. FRANK: Can we have the card?</p>
<p style="text-align: right;">Page 113</p> <p>1 A At employee health at New York Methodist Hospital.</p> <p>2 Q Do you happen to know the address?</p> <p>3 A It's the Wesley Building. Right now, they're on the 8th</p> <p>4 floor, but back then they were on a different floor, I can't</p> <p>5 remember which floor they were in.</p> <p>6 HEARING OFFICER SCHAFFER: <small>Union's Exhibit No. 1 identified</small></p> <p>7 THE WITNESS: Wesley Building.</p> <p>8 MR. FRANK: I have an objection to this line of hearing --</p> <p>9 questioning, because the events that the witness is testifying</p> <p>10 to predate the formation of the MSO.</p> <p>11 MR. FELSTINER: <small>They don't predate the formation of New</small></p> <p>12 York Methodist Hospital, do they? You're representing that New</p> <p>13 York Methodist Hospital is over a hundred years old.</p> <p>14 HEARING OFFICER SCHAFFER: <small>Union's Exhibit No. 1 identified</small></p> <p>15 because though I --</p> <p>16 MR. FRANK: We can do this on cross-examination but --</p> <p>17 HEARING OFFICER SCHAFFER: <small>Union's Exhibit No. 1 identified</small></p> <p>18 documents, we're going to have to develop that kind of</p> <p>19 information through testimony, so let's continue.</p> <p>20 BY MR. FELSTINER:</p> <p>21 Q Were you ever issued an identification card?</p> <p>22 A Yes.</p> <p>23 Q I'm going to show you a document, take a minute to look at</p> <p>24 that. Looking at the top image on this document --</p> <p>25 HEARING OFFICER SCHAFFER: <small>Union's Exhibit No. 1 identified</small></p>	<p style="text-align: right;">Page 115</p> <p>1 HEARING OFFICER SCHAFFER: <small>Union's Exhibit No. 1 identified</small></p> <p>2 THE WITNESS: Yes.</p> <p>3 (Pause)</p> <p>4 HEARING OFFICER SCHAFFER: <small>Union's Exhibit No. 1 identified</small></p> <p>5 card, there's a -- the left side of the card, about -- the</p> <p>6 front of the side of the card where the picture is, there's a</p> <p>7 vertical stripe of yellow.</p> <p>8 UNIDENTIFIED: Madame Hearing Officer, may I?</p> <p>9 HEARING OFFICER SCHAFFER: Sure.</p> <p>10 MR. FRANK: Running over the picture.</p> <p>11 HEARING OFFICER SCHAFFER: <small>Union's Exhibit No. 1 identified</small></p> <p>12 doesn't appear in the black and white document that's been</p> <p>13 marked as Union 1.</p> <p>14 MR. FRANK: No objection as long as the exhibit in the</p> <p>15 record reflects that there's a yellow stripe on the left-hand</p> <p>16 side.</p> <p>17 HEARING OFFICER SCHAFFER: <small>Union's Exhibit No. 1 identified</small></p> <p>18 (Union's Exhibit No. 1 received)</p> <p>19 BY MR. FELSTINER:</p> <p>20 Q Ms. Flores-Shah, did you attend an orientation?</p> <p>21 HEARING OFFICER SCHAFFER: <small>Union's Exhibit No. 1 identified</small></p> <p>22 with the second part of the --</p> <p>23 MR. FELSTINER: Certainly. I'd planned to do it later but</p> <p>24 --</p> <p>25 HEARING OFFICER SCHAFFER: <small>Union's Exhibit No. 1 identified</small></p>

Page 116	Page 118
<p>1 MR. FELSTINER: Would it be all right -- when we talk 2 about employee benefits this is the employee badge, or the 3 testimony that we'll -- 4 HEARING OFFICER SCHAFFER: <small>Objection to Union 1</small> 5 just wanted to clarify, that's not the back of the card. 6 THE WITNESS: No. 7 HEARING OFFICER SCHAFFER: Okay. 8 BY MR. FELSTINER: 9 Q Can you -- I'm sorry, I think I was in the middle of 10 saying -- asking whether you attended any orientation either 11 before or at the beginning of your employment. 12 A Yes, I did. 13 Q Where was the orientation held? 14 A At the Wesley Building at New York Methodist Hospital. 15 Q Were any other employees present for the orientation? 16 A Yes, there were other employees in the room. 17 Q Any of the other employees receiving orientation that day 18 either current employees of the urology facility or scheduled 19 to begin employment at the urology facility? 20 A I can't remember the urology employees back then. 21 HEARING OFFICER SCHAFFER: <small>Say it again.</small> 22 THE WITNESS: I can't remember if there was other 23 employees that was coming into the urology on the day of that 24 orientation. 25 Q About how many employees were present?</p>	<p>1 occurred at the Wesley Building? 2 A Yes. 3 Q Would you take a look at the agenda on page 2? 4 HEARING OFFICER SCHAFFER: <small>Objection to Union 1</small> 5 but what's marked as page 1 of the document in the bottom 6 right-hand corner, right? 7 THE WITNESS: Uh-huh. 8 MR. FELSTINER: Uh, I believe -- 9 HEARING OFFICER SCHAFFER: <small>Objection to Union 1</small> 10 MR. FELSTINER: -- it's marked as page 2. 11 HEARING OFFICER SCHAFFER: <small>Objection to Union 1</small> 12 the exhibit, but it's marked -- 13 MR. FELSTINER: I'm sorry, it'd be page 4 of the exhibit 14 marked as page 2 of the document. 15 BY MR. FELSTINER: 16 Q Were you in attendance for all the events listed on this 17 agenda? 18 A Yes. 19 Q Would you take a look at what's marked as page 1 of the 20 document, would be page 2 of the exhibit? 21 A (Witness complies) 22 Q Stop, New York Methodist Hospital new employee 23 orientation, that page. 24 A Uh-huh. 25 Q Under number 3 of this table of contents, lists policies.</p>
Page 117	Page 119
<p>1 A I would say about 20 plus. It was a big orientation. 2 Q Between 20 and 30; is that fair? 3 A Yeah. 4 MR. FRANK: Objection to form. 5 HEARING OFFICER SCHAFFER: <small>Overruled.</small> 6 MR. FRANK: The witness testified and -- 7 MR. FELSTINER: Withdrawn. Withdrawn. 8 BY MR. FELSTINER: 9 Q Can you estimate the amount? 10 MR. FRANK: She did, objection. 11 HEARING OFFICER SCHAFFER: <small>Objection to Union 1</small> 12 ask a clarifying question for a range, I'm okay with it, if 13 there were less than 30, that's fine. 14 MR. FELSTINER: Thank you. 15 Q Were there less than 30? 16 A Yes. 17 Q I'm going to show you another document -- 18 HEARING OFFICER SCHAFFER: <small>Marked as Union 2</small> 19 (Union's Exhibit No. 2 identified) 20 Q Take a second to take a look at it. Do you recognize it? 21 A Yes. 22 Q What is it? 23 A It was the binder that was given to me when I went to 24 orientation at Methodist. 25 Q Just for clarity sake, this is the orientation that</p>	<p>1 At the orientation did they describe any of the policies to 2 you? 3 A These policies, yes. 4 Q Did you understand that these policies were to be 5 applicable to you in your employment? 6 A Yes. 7 Q Under number 4, it says incentives. Were these incentives 8 described to you at the orientation? 9 A Yes. 10 Q Did you understand, same question, that these were the 11 incentives to the extent they applied to you -- to the extent 12 as they were described herein, they would apply to you in your 13 employment? 14 A Yes. 15 MR. FELSTINER: <small>Move to admit this document, Union Exhibit</small> 16 I think 2. 17 HEARING OFFICER SCHAFFER: <small>Yes, Union 2</small> 18 MR. FRANK: Voir dire. 19 VOIR DIRE EXAMINATION 20 BY MR. FRANK: 21 Q Is this Exhibit 2 in 2008? 22 A Yes. 23 Q And in 2008 when you were given this as an employee of New 24 York Methodist Hospital? 25 A Yes.</p>

Page 120	Page 122
<p>1 MR. FRANK: No objection.</p> <p>2 HEARING OFFICER SCHAFFER: <small>Witness is submitted and</small></p> <p>3 evidence.</p> <p>4 (Union's Exhibit No. 2 received)</p> <p>5 DIRECT EXAMINATION, CONTD.</p> <p>6 BY MR. FELSTINER:</p> <p>7 Q Last couple of questions on the orientation. At any point</p> <p>8 in this orientation, did any of the presenters mention MSO of</p> <p>9 King's County LLC?</p> <p>10 MR. FRANK: Objection.</p> <p>11 HEARING OFFICER SCHAFFER: <small>You going to allow it.</small></p> <p>12 MR. FRANK: It's a hypothetical about a non-existent</p> <p>13 hospital when she was a hospital employee.</p> <p>14 HEARING OFFICER SCHAFFER: <small>Again you're making</small></p> <p>15 representations.</p> <p>16 MR. FRANK: That's my objection.</p> <p>17 HEARING OFFICER SCHAFFER: <small>You understand. You</small></p> <p>18 overruling the objection.</p> <p>19 MR. FELSTINER: That's not -- okay.</p> <p>20 HEARING OFFICER SCHAFFER: <small>Answer the question. Did</small></p> <p>21 anyone mention MSO?</p> <p>22 THE WITNESS: No.</p> <p>23 BY MR. FELSTINER:</p> <p>24 Q Did any of the presenters distinguish between the policies</p> <p>25 or procedures that apply to you, the urology facility, and</p>	<p>1 urology versus employees working in other departments about</p> <p>2 benefits, policies, anything like that?</p> <p>3 THE WITNESS: No.</p> <p>4 HEARING OFFICER SCHAFFER: <small>Okay, that's clearly yes.</small></p> <p>5 just mentioned Brooklyn Urology.</p> <p>6 THE WITNESS: Yeah.</p> <p>7 HEARING OFFICER SCHAFFER: <small>Did they refer to it as</small></p> <p>8 Brooklyn Urology?</p> <p>9 THE WITNESS: Yes, it's on my ID.</p> <p>10 HEARING OFFICER SCHAFFER: Oh.</p> <p>11 MR. FRANK: It's a different entity, right.</p> <p>12 THE WITNESS: They're still called that.</p> <p>13 HEARING OFFICER SCHAFFER: <small>Okay, that's clearly the case.</small></p> <p>14 MR. FRANK: That's her ID, it shows Brooklyn Urology.</p> <p>15 HEARING OFFICER SCHAFFER: <small>I know, she should call that</small></p> <p>16 Felstiner.</p> <p>17 BY MR. FELSTINER:</p> <p>18 Q Brooklyn Urology -- well withdrawn. We'll get to that</p> <p>19 later.</p> <p>20 So after the orientation, where were you stationed to</p> <p>21 work? And let me -- withdrawn.</p> <p>22 When you started working in the urology facility, where</p> <p>23 were you stationed?</p> <p>24 HEARING OFFICER SCHAFFER: <small>You mean to the --</small></p> <p>25 MR. FELSTINER: I'm going to withdraw that question too,</p>
Page 121	Page 123
<p>1 those that apply to any of the other employees present at the</p> <p>2 orientation?</p> <p>3 MR. FRANK: Objection. Again, there's no foundation that</p> <p>4 she was working at the urology facility in 2008.</p> <p>5 HEARING OFFICER SCHAFFER: <small>She testified that's what</small></p> <p>6 MR. FELSTINER: Yeah, you can ask her.</p> <p>7 HEARING OFFICER SCHAFFER: <small>That's correct to the question --</small></p> <p>8 more -- well, I'll just ask it.</p> <p>9 In terms of the new -- when they were doing the new</p> <p>10 employee orientation, was there a distinction being drawn</p> <p>11 between you -- were there employees there from other parts of -</p> <p>12 - let me ask it this way, I'm sorry.</p> <p>13 When you applied for the job --</p> <p>14 THE WITNESS: Uh-huh.</p> <p>15 HEARING OFFICER SCHAFFER: <small>Okay, that's correct.</small></p> <p>16 you were applying for, was it specifically a urology job or</p> <p>17 what department was it?</p> <p>18 THE WITNESS: I was hired to work at Brooklyn Urology, I</p> <p>19 was to work at urology for them, yes.</p> <p>20 HEARING OFFICER SCHAFFER: <small>Okay, that's correct.</small></p> <p>21 orientation, were there people there who were working in other</p> <p>22 locations, not the urology department?</p> <p>23 THE WITNESS: Yes.</p> <p>24 HEARING OFFICER SCHAFFER: <small>Okay, that's correct.</small></p> <p>25 there ever a distinction being made about you and working in</p>	<p>1 my apologies.</p> <p>2 BY MR. FELSTINER:</p> <p>3 Q After you were hired, where was the first location you</p> <p>4 were stationed to work?</p> <p>5 A The first location I reported to was at the main building</p> <p>6 Room 315, which is Dr. Grunberger's main office, because our</p> <p>7 facility wasn't finished yet.</p> <p>8 Q Milner?</p> <p>9 A Yeah.</p> <p>10 Q What does that refer to?</p> <p>11 A It's when you --</p> <p>12 Q Can I refer you to Union Exhibit 2? It's marked in the</p> <p>13 exhibit as page 3, I believe it's page 5 -- so page 5 of the</p> <p>14 exhibit, page 3 of the document.</p> <p>15 A We still have a different book. When you going through</p> <p>16 the 6th Street where the glass tunnel is, and you take those</p> <p>17 elevators to the third floor, it's the back of the main</p> <p>18 building here, the back of Buckley there's an office back</p> <p>19 there.</p> <p>20 HEARING OFFICER SCHAFFER: <small>I see, that's correct.</small></p> <p>21 Pavilion?</p> <p>22 THE WITNESS: That's the Minor. Let's see, okay, yeah,</p> <p>23 because I take the elevator. This is it, yeah.</p> <p>24 HEARING OFFICER SCHAFFER: <small>Oh, that's Minor.</small></p> <p>25 THE WITNESS: Right, because this is the glass tunnel, I</p>

<p style="text-align: right;">Page 124</p> <p>1 take the elevators here when I get off the floor, so it's on 2 this side. 3 HEARING OFFICER SCHAFFER: <small>For the record, the witness</small> 4 pointing -- there's a rectangle at 6 that's adjacent to the 5 right of the 6 and 6th Street, and just pointing Minor 6 Pavilion. Okay. 7 BY MR. FELSTINER: 8 Q Who is Dr. Grunberger? 9 A He's the Chief of Urology at New York Methodist. 10 Q You -- I believe you testified that his office is located 11 in that 315? 12 A His administrative office is. 13 Q Administrative office, thank you. 14 Does he still have an office there? 15 A That office -- 16 Q I'm sorry? 17 HEARING OFFICER SCHAFFER: <small>You need to speak up a little</small> 18 THE WITNESS: I'm sorry. 19 HEARING OFFICER SCHAFFER: <small>That's okay.</small> 20 THE WITNESS: Yes, that office is still there. 21 Q Any other staff in that office? 22 A He had a secretary there. 23 Q How long were you stationed in that 315 location? 24 A About a month, month and a half. 25 Q Where were you stationed after that?</p>	<p style="text-align: right;">Page 126</p> <p>1 non-question. 2 HEARING OFFICER SCHAFFER: <small>I understand.</small> 3 BY MR. FELSTINER: 4 Q Do you use an e-mail system? 5 A Yes. 6 Q Do you have an e-mail address assigned to you? 7 A Yes. 8 Q What is it? 9 A Maf9119@nyp.org. 10 HEARING OFFICER SCHAFFER: Nyb -- 11 THE WITNESS: P as in Peter. 12 HEARING OFFICER SCHAFFER: <small>Okay. P as in Peter.</small> 13 Q Do you know what New York stands for? 14 A New York Presbyterian. 15 Q Do you ever have to mail -- well, anything from your 16 office -- 17 A Yes. 18 Q -- through the regular mail? 19 A Yeah. 20 Q Do you post it in-house? 21 A Yeah, most of the time we postage in-house. 22 Q When don't you do postage in-house? 23 A When our postage machine is down, we'll send large 24 packages through inter office to the hospital mail room. 25 Q What hospital are you referring to?</p>
<p style="text-align: right;">Page 125</p> <p>1 A I went to 1 Prospect Park West. 2 Q You described your -- 3 HEARING OFFICER SCHAFFER: <small>Can we get a date?</small> 4 MR. FELSTINER: Sure. 5 HEARING OFFICER SCHAFFER: <small>Is your memory complete?</small> 6 THE WITNESS: It was about the end of May. 7 HEARING OFFICER SCHAFFER: <small>In 2008?</small> 8 THE WITNESS: Yeah. I can't remember the exact date. 9 BY MR. FELSTINER: 10 Q What are your current job duties as an administrative 11 assistant? 12 A I schedule patients for surgeries in office and for the 13 hospital. I give appointments, I answer the phones, I get 14 authorization for procedures, surgeries. I verify insurances. 15 I order medications for patients. I make sure the equipment is 16 available for the procedures in the office. I confirm with 17 anesthesia when they need it in the office. I process co-pays 18 for the office. At times I make the deposits for the co-pays 19 for the office. 20 Q That was fairly comprehensive, but I just wanted to get a 21 general sense. 22 MR. FRANK: I would move to strike counsel's comment, it's 23 inappropriate. 24 HEARING OFFICER SCHAFFER: <small>Overruled, go ahead.</small> 25 MR. FRANK: That wasn't a question, move to strike it as a</p>	<p style="text-align: right;">Page 127</p> <p>1 A New York Methodist Hospital. 2 Q How did you send packages through the interoffice mail to 3 the hospital? 4 A We have a person that comes in and delivers and picks up 5 stuff from our office. 6 Q You say delivers and picks up? 7 A Uh-huh. 8 Q What kind of things does the delivery person pick up? 9 A He'll pick up interoffice envelopes from us, and dirty 10 linen. 11 Q Where does he deliver the dirty linen? 12 A To the New York Methodist Hospital, the linen department. 13 Q When you receive clean linen, where it is coming from? 14 A New York Methodist Hospital. 15 HEARING OFFICER SCHAFFER: <small>How do you know that?</small> 16 THE WITNESS: Because I've called for -- whenever we need 17 linen -- 18 HEARING OFFICER SCHAFFER: Uh-huh. 19 THE WITNESS: -- whoever can call, calls the linen 20 department to say we need linens. 21 HEARING OFFICER SCHAFFER: <small>And where's the linen</small> 22 department? 23 THE WITNESS: At New York Methodist Hospital. 24 BY MR. FELSTINER: 25 Q Suppose a patient needs -- suppose the patient is seen by</p>

<p style="text-align: right;">Page 128</p> <p>1 one of the doctors at the urology facility and needs an x-ray, 2 does that ever happen? 3 A No. 4 Q In those situations, they receive an x-ray on site or 5 somewhere else? 6 A They can get an on-site and somewhere else. 7 Q What happens if they're going to get it on site? 8 A We do the paperwork in the office, and we walk them down 9 the hall -- 10 Q Okay. 11 A -- to the x-ray room that's by Suite B, in Suite B. 12 Q You said the x-ray was by Suite B or in Suite B? 13 A Well, you can go through Suite B to the x-ray room, and it 14 has a door for patients to come into and come down the hallway, 15 so I go through to drop the papers off to -- 16 Q Just to clarify for me, urology facility is in which 17 suite? 18 A C. 19 HEARING OFFICER SCHAFFER: <small>that there's an entrance</small> 20 there's another entrance that's not for Suite B, for the x-ray 21 department? 22 THE WITNESS: There's the x-ray door. 23 HEARING OFFICER SCHAFFER: Okay. 24 THE WITNESS: Just -- but the red light is there. But for 25 me, to drop off papers, I have to go through Suite B to give it</p>	<p style="text-align: right;">Page 130</p> <p>1 HEARING OFFICER SCHAFFER: <small>.....</small> 2 tech? 3 THE WITNESS: Yes and no. Yes, they're regularly, most of 4 the time it's the same one, when that person is not, they send 5 a replacement. 6 HEARING OFFICER SCHAFFER: Okay. 7 BY MR. FELSTINER: 8 Q Which physicians work in the Suite C? 9 A Which physicians? Dr. Ivan Grunberger, Dr. Ivan Collon -- 10 HEARING OFFICER SCHAFFER: <small>Grunberger?</small> 11 THE WITNESS: Yeah. 12 HEARING OFFICER SCHAFFER: <small>Collon, is it Collon?</small> 13 THE WITNESS: Uh-huh. Zoltan. 14 HEARING OFFICER SCHAFFER: <small>C-o-l-l-o-n?</small> 15 THE WITNESS: Z, Z. Yanke, Y-a-n-k-e. 16 MR. FRANK: How do you spell that? 17 THE WITNESS: Y-a-n-k-e. 18 MR. FRANK: Thank you. 19 THE WITNESS: And Dr. Schulz, S-c-h-u-l-z. 20 BY MR. FELSTINER: 21 Q Who is your supervisor? Who supervises you in the 22 activities that you described? 23 A The doctor and office manager. 24 Q Are there certain activities that one supervises and 25 others that the other supervises?</p>
<p style="text-align: right;">Page 129</p> <p>1 to them. 2 HEARING OFFICER SCHAFFER: <small>that, that's a question</small> 3 coming in off the street to go get or if you're directing a 4 patient to the x-ray room to get an x-ray, do they have to walk 5 through Suite B too? 6 THE WITNESS: No, they go through that door. 7 HEARING OFFICER SCHAFFER: <small>through the -- okay</small> 8 BY MR. FELSTINER: 9 Q Is there an x-ray tech on the staff of the urology 10 facility? 11 A I'm sorry? 12 Q Well, who performs the x-rays? 13 A The radiology tech. 14 Q Is the radiology tech on the staff of -- does the 15 radiology tech work with you in Suite B? 16 MR. FRANK: Objection, she doesn't work in -- 17 Q Excuse me, in Suite C. 18 A Not in Suite C, no. 19 Q Have you spoken with this radiology tech? 20 A Yeah, we speak to -- yeah, we communicate. 21 Q About what? 22 A When we have a patient for them, to give them, you know, 23 the name and the paperwork so they can do the x-ray. 24 Q And who employs the radiology tech? 25 A Radiology tech comes from New York Methodist Hospital.</p>	<p style="text-align: right;">Page 131</p> <p>1 A The doctors will supervise me over the procedures that I 2 have to schedule and that portion, the office manager, the 3 clerical and office things that I have to do. 4 MR. FRANK: And can we have a name? 5 MR. FELSTINER: Yes, we'll get there, trust me. 6 Q You referred to the office manager, who is that? 7 A Suzanne Dinnerstein. Sometimes she goes by Wood too. 8 MR. FRANK: Can you spell that? 9 HEARING OFFICER SCHAFFER: <small>.....</small> 10 THE WITNESS: D-i-n-n-e-r-s-t-e-i-n or Wood, W-o-o-d. 11 HEARING OFFICER SCHAFFER: Okay. 12 BY MR. FELSTINER: 13 Q Have you ever received a performance evaluation? 14 A Yes. 15 Q When was that? 16 A 2009 I think was the last one. 17 Q Who performed it? 18 A Back then it was Laura Shea, she was the office manager 19 back then. 20 Q Have you received any performance evaluations since then? 21 A No. 22 Q Did you receive any training on fire safety? 23 A Yes. 24 Q Were those regular trainings or just one? 25 A They're regular trainings.</p>

Page 132	Page 134
<p>1 Q About how often?</p> <p>2 A They come about every six months.</p> <p>3 Q Who performs those?</p> <p>4 A A gentleman by the name of Shannon.</p> <p>5 Q Is he affiliated with -- in any way with Brooklyn Urology</p> <p>6 or the urology facility?</p> <p>7 A He works for New York Methodist Hospital.</p> <p>8 Q Do you receive any trainings on communicating with</p> <p>9 patients?</p> <p>10 A I've gone to training, yes.</p> <p>11 Q What kind of training, can you explain that?</p> <p>12 A Like a customer service orientation, we had a class.</p> <p>13 Q Where was that training performed?</p> <p>14 A At the Wesley building at New York Methodist.</p> <p>15 Q Do you know who performed it?</p> <p>16 A It was a long time ago.</p> <p>17 Q I'm going to show you another document.</p> <p>18 HEARING OFFICER SCHAFFER: <small>holding this as Union's</small></p> <p>19 (Union's Exhibit No. 3 identified)</p> <p>20 Q Take a second to look at that. Do you recognize it?</p> <p>21 A Yes.</p> <p>22 Q What is it?</p> <p>23 A It's like an update to the policies for attendance and</p> <p>24 latenesses (sic) and sick time that was revised in 2015 to go</p> <p>25 over my orientation book.</p>	<p>1 (Union's Exhibit No. 3 received)</p> <p>2 DIRECT EXAMINATION, CONTD.</p> <p>3 BY MR. FELSTINER:</p> <p>4 Q Ms. Flores-Shah, when was the first time you heard about</p> <p>5 MSO of King's County LLC?</p> <p>6 A I would say it's about -- that I can remember, about 2011</p> <p>7 -- yeah, about 2011.</p> <p>8 Q In what context did you hear about it?</p> <p>9 A Human resources came to the office at our office at Suite</p> <p>10 C and they brought us a folder that had papers for W-4, the</p> <p>11 wage paper that we needed to sign, they said we needed to sign</p> <p>12 new forms for the MSO Group.</p> <p>13 Q You said human resources, do you remember who specifically</p> <p>14 came?</p> <p>15 A At that time, it was Mr. Buchanan and I believe it was</p> <p>16 Erica -- her last name starts with a K, but I can't remember</p> <p>17 completely.</p> <p>18 Q I'm going to show you a document --</p> <p>19 HEARING OFFICER SCHAFFER: <small>is not going to read</small></p> <p>20 --</p> <p>21 THE WITNESS: <small>That's the only thing we were -- I was given</small></p> <p>22 to fill out and submit.</p> <p>23 HEARING OFFICER SCHAFFER: <small>they said they gave you</small></p> <p>24 MR. FRANK: I couldn't hear, could I have the last</p> <p>25 question read back? I literally can't hear.</p>
Page 133	Page 135
<p>1 MR. FRANK: What was the last thing?</p> <p>2 THE WITNESS: I said that I get --</p> <p>3 HEARING OFFICER SCHAFFER: <small>Supersede.</small></p> <p>4 THE WITNESS: -- what's in this one.</p> <p>5 HEARING OFFICER SCHAFFER: <small>they superseded what's</small></p> <p>6 supersedes what's in the new employee orientation that you had?</p> <p>7 THE WITNESS: From 2008.</p> <p>8 HEARING OFFICER SCHAFFER: <small>From 2008.</small></p> <p>9 THE WITNESS: It's the sickness and --</p> <p>10 BY MR. FELSTINER:</p> <p>11 Q When did you receive this?</p> <p>12 A In 2015, November and the other one I got in December.</p> <p>13 MR. FELSTINER: The Union moves for admission.</p> <p>14 HEARING OFFICER SCHAFFER: <small>is not going to read</small></p> <p>15 in November of last year, 2015?</p> <p>16 THE WITNESS: 2015, yes.</p> <p>17 HEARING OFFICER SCHAFFER: <small>they are objecting</small></p> <p>18 VOIR DIRE EXAMINATION</p> <p>19 BY MR. FRANK:</p> <p>20 Q Who gave you this policy?</p> <p>21 A The office manager gave it to me.</p> <p>22 Q And it was --</p> <p>23 A Suzanne Dinnerstein.</p> <p>24 MR. FRANK: No objection.</p> <p>25 HEARING OFFICER SCHAFFER: <small>Union's is admitted.</small></p>	<p>1 HEARING OFFICER SCHAFFER: <small>is not going to read</small></p> <p>2 because of the technical, but she said that they had to fill</p> <p>3 out W-4s and that she handed it back.</p> <p>4 Did they have you fill out an I-9? An I-9?</p> <p>5 THE WITNESS: I don't remember that.</p> <p>6 HEARING OFFICER SCHAFFER: <small>they are going to read</small></p> <p>7 as Union's 4.</p> <p>8 (Union's Exhibit No. 4 identified)</p> <p>9 BY MR. FELSTINER:</p> <p>10 Q Do you recognize it?</p> <p>11 A Yeah. Yes, I do.</p> <p>12 Q What is it?</p> <p>13 A It's the paperwork that was handed to me in the folder</p> <p>14 when the W-4 came in, and the paperwork that was in that</p> <p>15 folder.</p> <p>16 HEARING OFFICER SCHAFFER: <small>is not going to read</small></p> <p>17 all the paperwork they gave you? Okay. So this is -- so if</p> <p>18 we're going through it, this one's -- the first one is the W-4</p> <p>19 that you're talking about.</p> <p>20 THE WITNESS: Right.</p> <p>21 HEARING OFFICER SCHAFFER: <small>that they gave you --</small></p> <p>22 THE WITNESS: Yeah, that's why I said I couldn't remember.</p> <p>23 HEARING OFFICER SCHAFFER: <small>they are objecting</small></p> <p>24 -- so you did fill out an I-9?</p> <p>25 THE WITNESS: Yeah, so this was in there.</p>

Page 136	Page 138
<p>1 HEARING OFFICER SCHAFFER: <small>Okay. Any objection?</small></p> <p>2 MR. FRANK: No objection.</p> <p>3 HEARING OFFICER SCHAFFER: <small>Okay. Thank you.</small></p> <p>4 evidence.</p> <p>5 (Union's Exhibit No. 4 received)</p> <p>6 BY MR. FELSTINER:</p> <p>7 Q Did Mr. Buchanan or Erica give you any other policies at</p> <p>8 that time?</p> <p>9 A No.</p> <p>10 Q Did they give you any new procedures for the urology</p> <p>11 facility?</p> <p>12 A No.</p> <p>13 Q Did you fill out a new employment application?</p> <p>14 A No.</p> <p>15 Q I'm showing you another document.</p> <p>16 HEARING OFFICER SCHAFFER: <small>Okay. Before the page.</small></p> <p>17 into evidence, I'm going to order redactions of certain items.</p> <p>18 So I'm actually going to ask Mr. -- it has social security</p> <p>19 numbers on it, so --</p> <p>20 MR. FRANK: Can we go off the record?</p> <p>21 HEARING OFFICER SCHAFFER: <small>Thank you, go off the record.</small></p> <p>22 for just a second.</p> <p>23 (Recessed at 1:58 p.m.; reconvened at 2:00 p.m.)</p> <p>24 BY MR. FELSTINER:</p> <p>25 Q Do you recognize these documents?</p>	<p>1 (Pause)</p> <p>2 HEARING OFFICER SCHAFFER: <small>Continue.</small></p> <p>3 Q On page 1 of Exhibit 5, right below where your name is --</p> <p>4 A Uh-huh.</p> <p>5 Q -- do you see that? It says, the employer's Federal</p> <p>6 Identification Number. Do you see that number?</p> <p>7 A Yes.</p> <p>8 Q And what is that number?</p> <p>9 A 11-1631796.</p> <p>10 Q And would you go to the next page?</p> <p>11 MR. FELSTINER: Sorry, I have to object, this is beyond</p> <p>12 voir dire. Are we trying to establish a foundation for this?</p> <p>13 HEARING OFFICER SCHAFFER: <small>Okay. Thank you.</small></p> <p>14 speaks for itself, and that the employer is pointing out -- the</p> <p>15 document speaks for itself --</p> <p>16 MR. FELSTINER: Is there any challenge to the authenticity</p> <p>17 or --</p> <p>18 HEARING OFFICER SCHAFFER: <small>Right, no, I --</small></p> <p>19 MR. FRANK: Wait till I ask my question and you'll find</p> <p>20 out.</p> <p>21 MR. FELSTINER: I'm objecting to this line.</p> <p>22 HEARING OFFICER SCHAFFER: <small>I understand.</small></p> <p>23 BY MR. FRANKS:</p> <p>24 Q Well, on the second page, is there a difference --</p> <p>25 HEARING OFFICER SCHAFFER: <small>Okay. Thank you.</small></p>
Page 137	Page 139
<p>1 A Yes.</p> <p>2 Q On the first page, what is it?</p> <p>3 A My W-2 for 2010.</p> <p>4 Q The second page?</p> <p>5 A My W-2 for 2011.</p> <p>6 Q And the third?</p> <p>7 A My W-2 for 2012.</p> <p>8 Q And finally the fourth?</p> <p>9 A My W-2 for 2013.</p> <p>10 Q Can you read at the top employer's name and address on the</p> <p>11 first page?</p> <p>12 A New York Methodist Hospital, 506 6th Street, Brooklyn, New</p> <p>13 York 11215.</p> <p>14 Q And then moving to the second page, 2011 W-2, the same</p> <p>15 box.</p> <p>16 A MSO Kings County, care of New York Methodist Hospital, 506</p> <p>17 6th Street, Brooklyn, New York.</p> <p>18 MR. FELSTINER: Move to admit.</p> <p>19 MR. FRANK: Voir dire.</p> <p>20 VOIR DIRE EXAMINATION</p> <p>21 BY MR. FRANK:</p> <p>22 Q Would you look on the first page in box that says B, which</p> <p>23 is below number 1, where it says the employer's FED number.</p> <p>24 HEARING OFFICER SCHAFFER: <small>Okay, go ahead and question.</small></p> <p>25 just wanted to -- can we go off the record for one second?</p>	<p>1 Officer, so hang on a second. The witness -- asked it -- the</p> <p>2 document speaks for itself, in that you've -- I think you're</p> <p>3 attempting to point out that in box B, the Fed ID, the</p> <p>4 employer's fed ID number is different on the documents. We</p> <p>5 don't need the witness to testify to that, the document speaks</p> <p>6 for itself, and as a document admitted into evidence, you're</p> <p>7 more than welcome to point that out, so.</p> <p>8 So I'm going to sustain the objection for the reason that</p> <p>9 -- the document speaks for itself, and it's in the record, that</p> <p>10 the fed ID is different. Okay?</p> <p>11 MR. FRANK: Now, it's interesting how a document is in the</p> <p>12 record before it's being admitted while I was asking on voir</p> <p>13 dire. It really --</p> <p>14 HEARING OFFICER SCHAFFER: <small>I see what you're --</small></p> <p>15 MR. FRANK: I was asking some questions on whether I had</p> <p>16 an objection or not to a five paged document going in, and you</p> <p>17 know, it's amazing how it's in the record before you even rule</p> <p>18 on it.</p> <p>19 HEARING OFFICER SCHAFFER: <small>Okay. Thank you.</small></p> <p>20 about the document itself?</p> <p>21 BY MR. FRANK:</p> <p>22 Q Did your employer change between 2010 and 2011?</p> <p>23 HEARING OFFICER SCHAFFER: <small>Again I --</small></p> <p>24 MR. FELSTINER: I'm sorry, I've got to object again.</p> <p>25 HEARING OFFICER SCHAFFER: <small>Okay. Thank you.</small></p>

1 asking the witness to draw a legal conclusion by asking her for
2 employer change.

3 MR. FRANK: I guess the point I would make, maybe these
4 should be two separate documents, two separate -- it appears
5 from the documents that she had one employer in 2010 who's
6 identified in box C with a number identified in box B, as New
7 York Methodist Hospital.

8 And the next four pages, next three pages, excuse me, the
9 2011, 2012 and 2013 the documents indicate she had a different
10 employer, MSO of Kings County. So I would think there should
11 be two separate documents, one from New York Methodist Hospital
12 and separate document, the last three pages are the W-2
13 statements from MSO Kings County.

14 HEARING OFFICER SCHAFFER: Okay. The record reflects.

15 MS. WILCOX: The union is offering it as one document, and
16 the reader of the record will be able to figure out and look at
17 the -- we're simply presenting this document as, you know,
18 offering this document into evidence.

19 HEARING OFFICER SCHAFFER: Okay.

20 MS. WILCOX: And it's certainly appropriate to offer it as
21 Union 4.

22 MR. FRANK: I would be marked as A, B, C and D as four
23 different documents then.

24 HEARING OFFICER SCHAFFER: Okay.

25 MR. FRANK: 5-A, 5-B, 5-C, 5-D.

Page 143

1 HEARING OFFICER SCHAFFER: (Sigh, the going is really --

2 Union 5, and we're going to put it into evidence. That said,

3 the point that you're trying to make is important and I

4 understand it, and I think -- and arguments based on the

5 contents of the document should certainly be included in

6 closing statements that are made, to the extent that you want

7 to make legal arguments based on what the documents show.

8 Okay?

9 (Union's Exhibit No. 5 identified and received)

10 MR. FRANK: The only reason I was asking for the

11 designations is so we can contrast the Exhibit 5, the A

12 document from B, C and D documents. In other words, when we

13 make the reference -- what?

14 UNIDENTIFIED: B is different than --

15 MR. FRANK: Well, that's why I suggesting that each one

16 marked A, B, C, D.

17 MR. FELSTINER: Yeah, but you had no objection --

18 HEARING OFFICER SCHAFFER: (Sigh, the testimony --

19 you're objecting, I'm -- are you objecting?

20 MR. FRANK: I'm objecting to them being defined as one

21 exhibit.

22 HEARING OFFICER SCHAFFER: (Sigh, the testimony --

23 MR. FRANK: That's my objection to the individual

24 document.

25 HEARING OFFICER SCHAFFER: (The testimony is --

Page 144	Page 146
<p>1 entering this document as it exists as Union 5. 2 DIRECT EXAMINATION, CONTD. 3 BY MR. FELSTINER: 4 Q Ms. Flora-Shah, I'm going to show you another document. 5 HEARING OFFICER SCHAFFER: <small>Continued through Union page</small> 6 to have -- so if you -- go ahead, continue, sorry. 7 Q Take a look at that. 8 MR. FRANK: Is that Union 6? 9 MR. FELSTINER: Yes, this would be offered as Union 6. 10 (Union's Exhibit No. 6 identified) 11 Q Ms. Flores-Shah, do you recognize that? 12 A Yes. 13 Q What is it? 14 A It's my paystub. 15 Q Take a look at the date on the top right corner. Tell us 16 when it's from. 17 A It was for pay date 3/24, 2016. 18 MR. FELSTINER: Offer this as Union 6. 19 HEARING OFFICER SCHAFFER: Okay. 20 MR. FELSTINER: I don't know if there's redactions, I was 21 just trying to look. 22 HEARING OFFICER SCHAFFER: <small>This is fine just checking it</small> 23 don't see anything. 24 MR. FELSTINER: Typically we redact routing numbers and 25 things like that.</p>	<p>1 (Union's Exhibit No. 7 identified) 2 BY MR. FELSTINER: 3 Q Do you recognize this document? 4 A Yes. 5 Q What is it? 6 A It's my bank statement. 7 Q Take a look at the date, top right corner, and tell me 8 when it's from? 9 A January 31st, 2016. 10 Q Take a look at entry for January 28th and read it for me. 11 A EFT ACH New York Methodist Hospital direct deposit, 12 160128. 13 Q Did you fill out a direct deposit form at any point during 14 your employment? 15 A Yes. 16 Q Was this the direct deposit? 17 A Yes. 18 MR. FELSTINER: The Union offers this as Union 7. 19 MR. FRANK: Objection -- 20 HEARING OFFICER SCHAFFER: <small>Objection overruled</small> 21 me ask one clarifying. When you say is this a direct deposit, 22 do you mean, is this statement on your bank reflect a direct 23 deposit from -- of your paycheck? 24 THE WITNESS: Yes. 25 HEARING OFFICER SCHAFFER: <small>Okay. Is there any --</small></p>
Page 145	Page 147
<p>1 HEARING OFFICER SCHAFFER: <small>Is that Union 7? Not today</small> 2 here? Can you point them out? I just don't see them. 3 MR. FRANK: I believe the routing and transit numbers -- I 4 believe they're X-d out on the copy. 5 HEARING OFFICER SCHAFFER: <small>Oh, okay, so what's that</small> 6 MR. FRANK: If you look at the check stub -- 7 HEARING OFFICER SCHAFFER: Yeah. 8 MR. FRANK: -- it looks like the routing numbers are -- 9 HEARING OFFICER SCHAFFER: <small>Yeah, okay. All right.</small> 10 MR. FELSTINER: So we move for admission. 11 HEARING OFFICER SCHAFFER: <small>Any objection?</small> 12 MR. FRANK: No objection. 13 HEARING OFFICER SCHAFFER: <small>Okay. Union's Exhibit No.</small> 14 paystub is received into evidence. 15 (Union's Exhibit No. 6 received) 16 MR. FELSTINER: Bear with us for a moment, almost there. 17 HEARING OFFICER SCHAFFER: Sure. 18 (Pause) 19 BY MR. FELSTINER: 20 Q I'm going to show you another document. 21 HEARING OFFICER SCHAFFER: <small>Let's go off the record for</small> 22 just one second. 23 (Pause) 24 HEARING OFFICER SCHAFFER: <small>Continuing this record</small> 25 this document is marked as Union 7.</p>	<p>1 MR. FRANK: I'm going to object on grounds of relevance of 2 her individual banking information. I don't think that it's 3 relevant or necessary to open that up for this proceeding. 4 Whatever she may have put on her direct deposit, whatever she 5 chose to do has no relevance to any of the issues in this case. 6 MR. FELSTINER: Well, the transfer is made by the payer. 7 This is certainly relevant to who is handling the payroll and 8 who is paying Ms. Flores-Shah. 9 MR. FRANK: That may or may not be true. 10 HEARING OFFICER SCHAFFER: <small>Is that Union 7?</small> 11 be -- I just -- I'm going to -- we're going to -- I'm going to 12 allow it into the record, but the reader of the record is going 13 to give it the weight that it's due. I don't know that it's 14 dispositive of who's making the -- 15 (Union's Exhibit No. 7 received) 16 MR. FRANK: Well then we would have the right to inquire 17 into this entry. We'd have to assume that as being accurate, 18 it may be what the witness required contrary to what was 19 originally intended. 20 MR. FELSTINER: If you want to produce -- 21 HEARING OFFICER SCHAFFER: <small>Okay. Is there any --</small> 22 this isn't -- this is a bank statement, this isn't -- did you 23 make any changes to this document? 24 THE WITNESS: No. 25 HEARING OFFICER SCHAFFER: <small>Is there any more to it?</small></p>

Page 148	Page 150
<p>1 your bank statement on line, this is what prints out?</p> <p>2 THE WITNESS: Yes.</p> <p>3 MR. FRANK: That's maybe what she told the bank. This is</p> <p>4 her instructions to the bank. How is that relevant?</p> <p>5 HEARING OFFICER SCHAFFER: <small>On the record.</small></p> <p>6 that's how bank statements -- it's a bank statement. So I'm</p> <p>7 going to allow the document into evidence with -- I'm going to</p> <p>8 allow it. I'm going to admit this document into evidence, U-7.</p> <p>9 BY MR. FELSTINER:</p> <p>10 Q Ms. Flores-Shah, you stated that you filled out deposit</p> <p>11 forms. Who gave it to you?</p> <p>12 A New York Methodist Hospital.</p> <p>13 Q Who did you submit it to after it was filled out?</p> <p>14 A At human resources at 2 Erica (indiscernible).</p> <p>15 Q Human resources in what physical location?</p> <p>16 A 9th Street.</p> <p>17 Q Do you recall what information did you put on the direct</p> <p>18 deposit?</p> <p>19 A I gave them a voided check from my checking account.</p> <p>20 MR. FRANK: Do we have a date of this?</p> <p>21 THE WITNESS: 2008, April of 2008.</p> <p>22 BY MR. FELSTINER:</p> <p>23 Q And you've been receiving direct deposits since that time?</p> <p>24 A Yes, I have.</p> <p>25 Q I'm going to show you another document.</p>	<p>1 HEARING OFFICER SCHAFFER: <small>On the record.</small></p> <p>2 admitted into evidence.</p> <p>3 (Union's Exhibit No. 8 received)</p> <p>4 BY MR. FELSTINER:</p> <p>5 Q Show you another document. All right. Ms. Flores-Shah,</p> <p>6 do you recognize this document?</p> <p>7 A Yes, I do.</p> <p>8 Q What is it?</p> <p>9 A It's another verification of employment.</p> <p>10 HEARING OFFICER SCHAFFER: <small>On the record.</small></p> <p>11 -</p> <p>12 MR. FELSTINER: I was just looking for the same thing.</p> <p>13 HEARING OFFICER SCHAFFER: <small>On the record.</small></p> <p>14 Q Have you ever obtained a document like this before?</p> <p>15 A No.</p> <p>16 Q Would you look at the top corner under the date, what's</p> <p>17 the date listed?</p> <p>18 A March 29, 2016.</p> <p>19 Q And how is the document --</p> <p>20 MR. FRANK: I'm sorry, where is that?</p> <p>21 HEARING OFFICER SCHAFFER: <small>Top left corner.</small></p> <p>22 MR. FRANK: Top left corner.</p> <p>23 Q Have you seen a document like this before?</p> <p>24 A No.</p> <p>25 Q And you said that you recognized it.</p>
Page 149	Page 151
<p>1 HEARING OFFICER SCHAFFER: <small>Off the record.</small></p> <p>2 (Recessed at 2:17 p.m.; reconvened at 2:19 p.m.)</p> <p>3 HEARING OFFICER SCHAFFER: <small>On the record.</small></p> <p>4 This is Union 8. Go ahead.</p> <p>5 (Union's Exhibit No. 8 identified)</p> <p>6 BY MR. FELSTINER:</p> <p>7 Q Have you had a chance to look at this?</p> <p>8 A Yes.</p> <p>9 Q Do you recognize it?</p> <p>10 A Yes, I do.</p> <p>11 Q What is it?</p> <p>12 A It is a verification of employment I requested from New</p> <p>13 York Methodist Hospital.</p> <p>14 Q To whom did you submit this request?</p> <p>15 A Human resource department, New York Methodist Hospital.</p> <p>16 Q And they provided this letter back to you directly?</p> <p>17 A Yes, they did.</p> <p>18 Q It's a true and correct copy of the letter.</p> <p>19 A Yes, it is.</p> <p>20 MR. FELSTINER: We'd move to admit this as Union 8.</p> <p>21 MR. FRANK: No objection.</p> <p>22 HEARING OFFICER SCHAFFER: <small>On the record.</small></p> <p>23 or a letter?</p> <p>24 THE WITNESS: No, this was an actual letter, had to be an</p> <p>25 original letter for the purpose.</p>	<p>1 A Oh, I'm sorry, I misunderstood the question. It's my</p> <p>2 document, yes.</p> <p>3 Q How did you obtain it?</p> <p>4 A I got it on line from the Methodist website, human</p> <p>5 resource page.</p> <p>6 Q So how do you go about obtaining this document from the</p> <p>7 Methodist website, resource page?</p> <p>8 A I go on to the New York Methodist website, and go to the</p> <p>9 human resources staff resources, I go onto the work webpage,</p> <p>10 and it has different -- where all our benefits listed and one</p> <p>11 of the categories is other resources, and it says verification</p> <p>12 of employment. I hit on that, it takes you into a page where</p> <p>13 you have to put in your social security and everything to get a</p> <p>14 verification of your employment with a past history of pay of</p> <p>15 different years, it shows how long you've been employed at a</p> <p>16 facility.</p> <p>17 Q Did you obtain this document using that process you just</p> <p>18 described?</p> <p>19 A Yes, I did.</p> <p>20 Q Would you look at -- looking on the box labeled most</p> <p>21 recent start date, do you see that?</p> <p>22 A Yes, I do.</p> <p>23 Q It says 10/11, 2010, correct?</p> <p>24 A It says that, yes.</p> <p>25 MR. FRANK: Document speaks for itself.</p>

Page 152	Page 154
<p>1 HEARING OFFICER SCHAFFER: _____</p> <p>2 but the document does speak for itself.</p> <p>3 MR. FELSTINER: Okay. My apologies.</p> <p>4 Q There's a handwritten notation here, who made that?</p> <p>5 A I did.</p> <p>6 Q What does it say? I know if it speaks for itself, the</p> <p>7 handwritten notation, I was going to ask her to read that.</p> <p>8 HEARING OFFICER SCHAFFER: <small>You can ask that.</small></p> <p>9 MR. FELSTINER: Thank you.</p> <p>10 THE WITNESS: Been working since April 2008.</p> <p>11 HEARING OFFICER SCHAFFER: <small>Says 4/2008.</small></p> <p>12 THE WITNESS: Yes.</p> <p>13 Q And you wrote that?</p> <p>14 A Yes, I did.</p> <p>15 Q How come?</p> <p>16 A Because I needed for documentation for something I'm</p> <p>17 using, plus on the bottom it says 2008, but the date that's</p> <p>18 written on most recent, according to this isn't correct. It</p> <p>19 should say 2008.</p> <p>20 Q You said on the bottom, to where are you referring?</p> <p>21 A The bottom left-hand corner, it says year 2008 and my</p> <p>22 salary.</p> <p>23 HEARING OFFICER SCHAFFER: <small>Is that what he put?</small></p> <p>24 -</p> <p>25 THE WITNESS: Right. Right here it says the most recent</p>	<p>1 explain what we just did. So off the record the witness</p> <p>2 produced pages 1 through 11 of the print out. The employer's</p> <p>3 counsel had an opportunity to look at it, and suggested that</p> <p>4 page 1 of the document be included, which the parties, the</p> <p>5 Union's agreed to, and so we will add -- so this document,</p> <p>6 Union 9 won't be -- we'll add to the cover page to it, in</p> <p>7 addition to the summary page, which is page 2, and go ahead,</p> <p>8 Mr. Franks (sic).</p> <p>9 (Union's Exhibit No. 9 identified)</p> <p>10 BY MR. FRANK:</p> <p>11 Q Did you request that this report be made after the</p> <p>12 petition in this case was filed?</p> <p>13 HEARING OFFICER SCHAFFER: <small>He did not ask me to do so.</small></p> <p>14 did.</p> <p>15 MR. FRANK: Okay.</p> <p>16 Q Did you make the request to have this report printed after</p> <p>17 -- when was the petition?</p> <p>18 HEARING OFFICER SCHAFFER: <small>Just ask when.</small></p> <p>19 MS. WILCOX: The date is the --</p> <p>20 Q On March 29th, 2016.</p> <p>21 A Yes.</p> <p>22 HEARING OFFICER SCHAFFER: <small>Is that the date?</small></p> <p>23 Q And did you have this report prepared for the purpose of</p> <p>24 this?</p> <p>25 A No, I did not.</p>
Page 153	Page 155
<p>1 start date was 10/11, 2010 which is not correct.</p> <p>2 HEARING OFFICER SCHAFFER: Okay.</p> <p>3 MR. FELSTINER: We move to admit this as Union 9.</p> <p>4 MR. FRANK: Voir dire.</p> <p>5 VOIR DIRE EXAMINATION</p> <p>6 BY MR. FRANK:</p> <p>7 Q This says page 2 of 11. Can I see the other 11 pages,</p> <p>8 please?</p> <p>9 A It has all my salaries, that's why I did not hand it in,</p> <p>10 but I will gladly get it to you. I have no problem with that.</p> <p>11 HEARING OFFICER SCHAFFER: <small>Are going to allow --</small></p> <p>12 MR. FRANK: Well, I'm --</p> <p>13 HEARING OFFICER SCHAFFER: <small>Is that going to be done?</small></p> <p>14 look at it, so if we could show it to them.</p> <p>15 THE WITNESS: Sure.</p> <p>16 HEARING OFFICER SCHAFFER: <small>Is that what you want to do?</small></p> <p>17 record.</p> <p>18 THE WITNESS: Okay.</p> <p>19 HEARING OFFICER SCHAFFER: <small>Let's go off the record for</small></p> <p>20 just one second.</p> <p>21 (Recessed at 2:24 p.m.; reconvened at 2:30 p.m.)</p> <p>22 HEARING OFFICER SCHAFFER: <small>Is that what you want to do?</small></p> <p>23 --</p> <p>24 Q Did you request --</p> <p>25 HEARING OFFICER SCHAFFER: <small>Is that what you want to do?</small></p>	<p>1 Q And was this report only for your personal use?</p> <p>2 MR. FELSTINER: I've got to object now, this is going on</p> <p>3 with voir dire here.</p> <p>4 MR. FRANK: Well, the document says --</p> <p>5 HEARING OFFICER SCHAFFER: <small>Is that what you want to do?</small></p> <p>6 referring to what the letter says?</p> <p>7 MR. FRANK: Yes.</p> <p>8 HEARING OFFICER SCHAFFER: <small>Okay. With you --</small></p> <p>9 MR. FRANK: It says it's not intended for verification</p> <p>10 purposes.</p> <p>11 HEARING OFFICER SCHAFFER: <small>Let's go off the record and</small></p> <p>12 ask whether -- if the letter is -- hang on one second. Let's</p> <p>13 go off the record one second.</p> <p>14 (Recessed at 2:31 p.m.; reconvened at 2:34 p.m.)</p> <p>15 MR. FRANK: I'm going to object to the document on the</p> <p>16 grounds of relevance in that it was created after the date of</p> <p>17 the petition being filed.</p> <p>18 HEARING OFFICER SCHAFFER: <small>Is that what you want to do?</small></p> <p>19 you mean that it was --</p> <p>20 MR. FRANK: The petition was filed March --</p> <p>21 HEARING OFFICER SCHAFFER: <small>Is that what you want to do?</small></p> <p>22 you mean?</p> <p>23 MR. FRANK: This information was requested after the</p> <p>24 petition was filed for the purposes of this hearing.</p> <p>25 HEARING OFFICER SCHAFFER: Okay.</p>

Page 156	Page 158
<p>1 MR. FRANK: I think it's objectionable.</p> <p>2 HEARING OFFICER SCHAFFER: <small>(all right, the hearing officer)</small></p> <p>3 objection and Union 9 is admitted into evidence.</p> <p>4 (Union's Exhibit No. 9 received)</p> <p>5 MR. FRANK: I guess that's my copy.</p> <p>6 HEARING OFFICER SCHAFFER: <small>(thank you, Mr. Frank)</small></p> <p>7 sorry. I'll make copies of this document, yes, I'll make you</p> <p>8 one too.</p> <p>9 For the purposes of putting documents in the public</p> <p>10 record, documents that -- the witness' address is going to be</p> <p>11 redacted, so I'll make the appropriate redactions and then</p> <p>12 provide copies with redactions.</p> <p>13 MR. FRANK: <small>(for the record, you might want to do the 9</small></p> <p>14 <small>because it did not -- the social security number.</small></p> <p>15 HEARING OFFICER SCHAFFER: <small>(thank you, Mr. Frank)</small></p> <p>16 Mr. Felstiner.</p> <p>17 DIRECT EXAMINATION, CONTD.</p> <p>18 BY MR. FELSTINER:</p> <p>19 Q I'll show you another document.</p> <p>20 HEARING OFFICER SCHAFFER: <small>(all right, the hearing officer)</small></p> <p>21 10.</p> <p>22 (Union's Exhibit No. 10 identified)</p> <p>23 Q Ms. Flores-Shah, do you recognize this document?</p> <p>24 A Yes, I do.</p> <p>25 Q What is it?</p>	<p>1 Q What is it?</p> <p>2 A It's my health insurance card.</p> <p>3 Q Did you receive it along with that letter --</p> <p>4 A Yes.</p> <p>5 Q -- Union Exhibit 10?</p> <p>6 A Yes.</p> <p>7 MR. FRANK: I also suggest you redact her member number</p> <p>8 for protection of --</p> <p>9 HEARING OFFICER SCHAFFER: I'll do it.</p> <p>10 MR. FRANK: Can I ask the Hearing Officer to give a</p> <p>11 direction that our employees --</p> <p>12 HEARING OFFICER SCHAFFER: Yes.</p> <p>13 MR. FRANK: Personal stuff be redacted. I mean --</p> <p>14 HEARING OFFICER SCHAFFER: Right.</p> <p>15 MR. FRANK: -- we're handle it appropriately, but we're</p> <p>16 going to have a lot of testimony and --</p> <p>17 HEARING OFFICER SCHAFFER: <small>(thank you, Mr. Frank)</small></p> <p>18 future that documents are checked first before admitted into</p> <p>19 evidence, and in the future, redact the employee's address, as</p> <p>20 well as any other personal identifiable information.</p> <p>21 All right. This document is marked as Union 11.</p> <p>22 (Union's Exhibit No. 11 identified)</p> <p>23 BY MR. FELSTINER:</p> <p>24 Q Ms. Flores-Shah, do you recognize this document?</p> <p>25 A Yes.</p>
Page 157	Page 159
<p>1 A It's the paper that comes with my insurance card, my</p> <p>2 health insurance card.</p> <p>3 Q Did you receive it personally?</p> <p>4 A In the mail, yes.</p> <p>5 Q Roughly when?</p> <p>6 A December 2015.</p> <p>7 MR. FELSTINER: <small>(Union moves to admit this document, Union</small></p> <p>8 <small>10.</small></p> <p>9 HEARING OFFICER SCHAFFER: <small>(Mr. Frank's (14:17))</small></p> <p>10 MR. FRANK: Just one second, please.</p> <p>11 (Pause)</p> <p>12 MR. FRANK: Is this connected to the card that was also</p> <p>13 attached to U-1?</p> <p>14 MR. FELSTINER: <small>(That is where I'm -- yeah, that's where</small></p> <p>15 <small>I'm going.</small></p> <p>16 MR. FRANK: No objection.</p> <p>17 HEARING OFFICER SCHAFFER: <small>(all right, Union 10)</small></p> <p>18 admitted into evidence.</p> <p>19 (Union's Exhibit No. 10 received)</p> <p>20 BY MR. FELSTINER:</p> <p>21 Q Ms. Flores-Shah, do you still have the Union 1?</p> <p>22 A Yes, sir.</p> <p>23 Q Take a look at the photo copy in the bottom half of this</p> <p>24 sheet, see if you recognize this.</p> <p>25 A Yes, I do.</p>	<p>1 Q What is it?</p> <p>2 A It's a EOV from the dental, from my dental insurance.</p> <p>3 HEARING OFFICER SCHAFFER: <small>(thank you, Mr. Frank)</small></p> <p>4 that explanation of --</p> <p>5 THE WITNESS: Of benefits, yeah.</p> <p>6 Q And it has a date in the -- let's see, in the top -- well,</p> <p>7 not quite the top, but the top right quadrant under date, so</p> <p>8 the document speaks for itself. I don't have to ask that</p> <p>9 question, withdrawn.</p> <p>10 MR. FELSTINER: <small>(Union moves to admit this document as</small></p> <p>11 <small>Union 11.</small></p> <p>12 HEARING OFFICER SCHAFFER: <small>(okay, with agreement)</small></p> <p>13 redactions, does the employer have a position?</p> <p>14 MR. FRANK: The biggest objection is the Union is</p> <p>15 violating Tesla three ways to Sunday. There's a lot of</p> <p>16 information that doesn't belong in a public record, her medical</p> <p>17 treatment or dental treatment should not be in the public</p> <p>18 record.</p> <p>19 MS. WILCOX: Well, we offer these documents with the</p> <p>20 understanding that we were concerned about coming in here</p> <p>21 redacting the documents and then saying what is this. So now</p> <p>22 that we have a standard and the Hearing Officer wants us to</p> <p>23 apply with, so we'll provide redacted documents in the future.</p> <p>24 HEARING OFFICER SCHAFFER: Okay.</p> <p>25 MS. WILCOX: And there's no HIPAA violation.</p>

Page 160	Page 162
<p>1 HEARING OFFICER SCHAFFER: <small>All right. Continue, Mr.</small> 2 Felstiner. 3 MR. FELSTINER: I'd moved for admission, I don't have any 4 -- 5 MR. FRANK: No objection. 6 HEARING OFFICER SCHAFFER: <small>She just testified.</small> 7 admit it, Union 11. 8 (Union's Exhibit No. 11 received) 9 MR. FRANK: Subject to cross, of course. 10 HEARING OFFICER SCHAFFER: <small>Union 12 is admitted.</small> 11 allowed to cross. 12 BY MR. FELSTINER: 13 Q Ms. Flores-Shah, do you recognize the location depicted in 14 this photograph? 15 A Yes, I do. 16 Q What is it? 17 A It's the entrance to our office at 1 PPW, 1 Prospect Park 18 West. 19 Q And is this how the entrance appears in the most recent 20 time you visited? 21 A Yes. 22 Q When was that? 23 A Friday -- no, Monday. Monday. 24 MR. FELSTINER: <small>Union moves to admit this as Union 12.</small> 25 (Union's Exhibit No. 12 identified)</p>	<p>1 Q But this is where you work? 2 HEARING OFFICER SCHAFFER: <small>She just testified.</small> 3 MR. FELSTINER: Yeah, that's asking. 4 Q This is where you go to work? 5 A Yes. 6 Q I didn't hear you. 7 A Yes. 8 MR. FRANK: No objections. 9 HEARING OFFICER SCHAFFER: <small>Union 12 is admitted.</small> 10 (Union's Exhibit No. 12 received) 11 (Pause) 12 MR. FELSTINER: Well, we'll reserve our right to recall if 13 necessary, but we're done with this witness. 14 HEARING OFFICER SCHAFFER: <small>She just testified.</small> 15 some questions, okay? 16 THE WITNESS: Okay. 17 HEARING OFFICER SCHAFFER: <small>Union 12 is admitted.</small> 18 case I didn't say this, I'm moving on that photograph. Is 19 there any objection? 20 MR. FRANK: No. 21 HEARING OFFICER SCHAFFER: <small>Union 12 is admitted.</small> 22 Franks (sic). 23 CROSS-EXAMINATION 24 BY MR. FRANKS: 25 Q What is Brooklyn Urology?</p>
Page 161	Page 163
<p>1 VOIR DIRE EXAMINATION 2 BY MR. FRANK: 3 Q Did you take this picture? 4 A Me, no. 5 Q What does the sign over the door say? 6 MR. FELSTINER: Which, what are you referring to I'm 7 sorry? 8 MR. FRANK: <small>The document, what does the sign over the door</small> 9 say? Can you read that for me? 10 HEARING OFFICER SCHAFFER: <small>You read the writing.</small> 11 MR. FRANK: Yes, what's on it. 12 HEARING OFFICER SCHAFFER: <small>Not asking you to read.</small> 13 THE WITNESS: Oh, this? 14 HEARING OFFICER SCHAFFER: Yes. 15 THE WITNESS: What's above the door? 16 MR. FRANK: Yeah. 17 HEARING OFFICER SCHAFFER: Yeah. 18 THE WITNESS: Okay. New York Methodist Medical 19 Associates. 20 BY MR FRANK: 21 Q And do you know what New York Methodist Medical Associates 22 is? 23 MR. FELSTINER: Objection. 24 HEARING OFFICER SCHAFFER: <small>Not permitted to object.</small> 25 voir dire.</p>	<p>1 A It's the office where I work. 2 Q And is Brooklyn Urology a physicians practice? 3 MR. FELSTINER: Objection, I don't think that -- the way 4 that you -- 5 HEARING OFFICER SCHAFFER: <small>Not permitted to object.</small> 6 that -- what do you mean by physician? Can you just clarify? 7 Yeah, let's break it down for me mostly. 8 Q What is Brooklyn Urology? 9 A It's the office where I work. 10 Q And who -- do doctors work in that office? 11 A Yes. 12 Q And who is the lead doctor in the office? 13 A Dr. Ivan Grunberger. 14 Q And is he a board certified urologist? 15 A Yes, he is. 16 Q Okay. And how long has he been a urologist, do you know? 17 HEARING OFFICER SCHAFFER: <small>If you know.</small> 18 THE WITNESS: Over 18 years. 19 Q Now, are there other doctors who work in that office? 20 A Yes, there are. 21 Q And I think you identified four other doctors that worked 22 at Brooklyn Urology; is that correct? 23 A Yes. 24 Q And all four of those physicians board certified 25 urologists?</p>

Page 164	Page 166
<p>1 HEARING OFFICER SCHAFFER: <small>Again, if you know.</small></p> <p>2 THE WITNESS: I am positive about -- out of the four,</p> <p>3 three of them, the last one I'm not sure if she's board</p> <p>4 certified yet.</p> <p>5 BY MR. FRANK:</p> <p>6 Q Okay. So she may be a younger physician who's studying to</p> <p>7 become board certified.</p> <p>8 A I believe she took her test, but I don't know when she</p> <p>9 passed it.</p> <p>10 Q And is her field the specialty urology?</p> <p>11 A She's a D.O. doctor, yeah.</p> <p>12 Q What is a D.O.?</p> <p>13 A I forget the name of it, but she's not M.D.</p> <p>14 Q An osteopath, Doctor of Osteopathy.</p> <p>15 HEARING OFFICER SCHAFFER: <small>Okay. Thank you.</small></p> <p>16 Q And in terms of practicing medicine, in very general</p> <p>17 terms, somebody who's an M.D. or somebody who's a D.O. can both</p> <p>18 practice medicine as physicians?</p> <p>19 HEARING OFFICER SCHAFFER: <small>Again, if you know.</small></p> <p>20 THE WITNESS: As far as I am aware, yes.</p> <p>21 Q And do all of the physicians who are in Brooklyn Urology,</p> <p>22 do they have privileges to practice medicine at New York</p> <p>23 Methodist Hospital?</p> <p>24 A Yes, they do.</p> <p>25 Q And how long have you worked with Dr. Grunberger?</p>	<p>1 Q And you went with him at that time?</p> <p>2 A Yes, sir.</p> <p>3 Q Now, did there come a time where you moved -- let me</p> <p>4 rephrase that.</p> <p>5 Where does Dr. Grunberger see patients?</p> <p>6 A He sees patients at 1 Prospect Park West --</p> <p>7 Q Okay.</p> <p>8 A -- and he has another location. Do you want that one too?</p> <p>9 HEARING OFFICER SCHAFFER: <small>What is the address?</small></p> <p>10 THE WITNESS: 126 Greenpoint Avenue.</p> <p>11 Q Okay. Now, do you spend all of your work time at 1</p> <p>12 Prospect Park Plaza?</p> <p>13 A 1 Prospect Park West?</p> <p>14 Q 1 Prospect Park West, excuse me.</p> <p>15 A Yes.</p> <p>16 Q And do you spend any of your work time inside the building</p> <p>17 of New York Methodist Hospital?</p> <p>18 A (No response)</p> <p>19 HEARING OFFICER SCHAFFER: <small>What is the address?</small></p> <p>20 in New York Methodist Hospital.</p> <p>21 MR. FELSTINER: <small>Clarify by what you mean by New York</small></p> <p>22 Methodist Hospital and in what building.</p> <p>23 HEARING OFFICER SCHAFFER: Okay.</p> <p>24 MR. FRANK: No, no, no.</p> <p>25 THE WITNESS: I can answer the question. I can answer the</p>
Page 165	Page 167
<p>1 A 18 years.</p> <p>2 Q So is it a fact that prior to your becoming an employee of</p> <p>3 New York Methodist Hospital, you had worked with Dr. Grunberger</p> <p>4 before that?</p> <p>5 A Yes, sir.</p> <p>6 Q And that would be for approximately how many years?</p> <p>7 A 10 years.</p> <p>8 Q Now, did Dr. Grunberger move his practice to 1 Prospect</p> <p>9 Park?</p> <p>10 A No, he did not.</p> <p>11 Q Where did he move his practice to?</p> <p>12 A He didn't move his practice, he was --</p> <p>13 HEARING OFFICER SCHAFFER: <small>What is the address?</small></p> <p>14 before?</p> <p>15 THE WITNESS: I worked with him at Long Island College</p> <p>16 Hospital.</p> <p>17 BY MR. FRANK:</p> <p>18 Q And when Dr. Grunberger leave Long Island College Hospital</p> <p>19 medical practice?</p> <p>20 A In 2008.</p> <p>21 Q And did he get privileges at another institution at that</p> <p>22 time?</p> <p>23 A When he left Long Island College?</p> <p>24 Q Yes.</p> <p>25 A New York Methodist Hospital, yes.</p>	<p>1 question, but it has more than one answer.</p> <p>2 HEARING OFFICER SCHAFFER: Okay.</p> <p>3 THE WITNESS: Okay.</p> <p>4 HEARING OFFICER SCHAFFER: <small>What is the address?</small></p> <p>5 what's going on.</p> <p>6 THE WITNESS: I do work at 1 Prospect Park West, I am</p> <p>7 there. Recently there was a flood at 1 Prospect Park West, and</p> <p>8 our office was moved to an office at New York Methodist</p> <p>9 Hospital, so I had been there.</p> <p>10 HEARING OFFICER SCHAFFER: <small>What is the address?</small></p> <p>11 what's the -- if you know.</p> <p>12 THE WITNESS: It's over the Barnes & Noble, the</p> <p>13 physician's office, I think it's 260 something (indiscernible)</p> <p>14 Avenue.</p> <p>15 HEARING OFFICER SCHAFFER: Okay.</p> <p>16 BY MR. FRANK:</p> <p>17 Q And were you at that location over Barnes & Noble for</p> <p>18 three days?</p> <p>19 A We were there for -- yes.</p> <p>20 Q And then you returned to 1 Prospect Park West.</p> <p>21 A Yes.</p> <p>22 Q So other than the three days after the floor --</p> <p>23 A Yes.</p> <p>24 Q -- all of your work is at 1 Prospect Park West.</p> <p>25 A Yes.</p>

<p style="text-align: right;">Page 168</p> <p>1 Q Now, who else works in Suite C with you at 1 Prospect Park 2 West in the urology department? 3 A You mean all the employees. 4 HEARING OFFICER SCHAFFER: <small>...the employees</small> 5 employees or -- 6 Q Employees. 7 A You want me to name all of them? 8 HEARING OFFICER SCHAFFER: <small>...the employees</small> 9 the types of different job classifications, or do you want her 10 to name the individuals? 11 Q What is your job title? 12 A Administrative assistant. 13 Q How many administrative assistants work for MSO Kings 14 County Urology at 1 Prospect Park West? 15 A I have a question. 16 HEARING OFFICER SCHAFFER: <small>...the employees</small> 17 THE WITNESS: No, I know that. Is the way he's putting 18 the question because I don't know if everybody is MSO. I for 19 one -- can I answer this honestly, I mean -- 20 HEARING OFFICER SCHAFFER: <small>Regardless of --</small> 21 Q Let me -- 22 A Yeah. 23 Q The question is using MSO. Let me rephrase the question. 24 At 1 Prospect Park West, Suite C, -- 25 A Yes.</p>	<p style="text-align: right;">Page 170</p> <p>1 Q Now, do you and Sochy, each of the five people who are 2 administrative assistants, do you all have the same jobs? Do 3 you do the same thing? 4 A Not really. 5 Q When you come into work in the morning, what do you do? 6 A I punch in. 7 Q And where do you punch in? 8 A On the computer. 9 Q And where's the computer located? 10 A At the front desk. 11 Q At what location? 12 A Reception area, 1 PPW, Suite C. 13 Q And after you punch in the computer, what are you assigned 14 to do on a routine basis? 15 A I go to my office and I start working with my surgery 16 patients I have booked for surgery, I answer my e-mails, I 17 schedule patients I need to reschedule, my daily routine, 18 answer the phones when I have to answer them, make calls, get 19 authorizations, order medicine. 20 Q And in doing that, are these all patients of Dr. 21 Grunberger? 22 A The -- okay. The surgeries are booked for Dr. Grunberger 23 and for Dr. Zoltan. I cover for booking surgeries for the 24 other doctors when Karla is not there. I also schedule 25 surgeries for Dr. Schulz.</p>
<p style="text-align: right;">Page 169</p> <p>1 Q -- there are five physicians who specialize in urology; is 2 that correct? 3 A Correct. 4 Q And you're an administrative assistant for that practice, 5 is that your title? 6 A My title is administrative assistant to a physician, yes. 7 Q Okay. Are there any other administrative assistants who 8 work in that location in Suite C in the urology practice? 9 A Yes. 10 Q And who are those individuals? 11 A Sochy Abreu. 12 MS. WILCOX: We have these names for you. 13 MR. FRANK: It would help the reader of the record if we 14 looked at the position statement that's set forth. 15 HEARING OFFICER SCHAFFER: <small>...the employees</small> 16 look at the -- if you want to read the names off of the 17 statement of position. 18 Q Sochy Abreu, Nila Revzin. 19 A Nila. 20 Q Nila. Does she have the same job title? 21 A She's an administrative assistant, yes. 22 Q Laura Shea. 23 A Laura Shea. 24 Q And Karla Southerland. 25 A Yes.</p>	<p style="text-align: right;">Page 171</p> <p>1 HEARING OFFICER SCHAFFER: <small>...the employees</small> 2 assistant? 3 THE WITNESS: Yeah, she was an administrative assistant 4 that was hired to help me out. 5 HEARING OFFICER SCHAFFER: Okay. 6 BY MR. FRANK: 7 Q Now, where does Abreu Sochy work, is it Sochy Abreu? 8 A Sochy Abreu. 9 Q Sochy Abreu, okay. Where does Sochy Abreu work? 10 A At 1 Prospect Park West, Suite C. 11 Q And do you see Sochy Abreu every day? 12 A Yes. 13 Q Where does Nila Revzin work? 14 A At 1 Prospect Park West, Suite C. 15 Q And what is her job duties? 16 A She sits at the front desk. She discharges patients as 17 they're leaving, giving them appointments. If the patients 18 need paperwork for radiology, she gives them paperwork. She 19 makes appointments for them. She collects co-pays for them. 20 Q And where does Laura Shea sit? 21 A Laura Shea comes into the office twice a week or sometimes 22 on Mondays. She sits in wherever they find a seat for her. 23 Q Is that in Suite C? 24 A Yes. 25 Q And when she's working, do you see her?</p>

<p style="text-align: right;">Page 172</p> <p>1 A Yes.</p> <p>2 Q And what does she do when she works?</p> <p>3 A She answers the phone, she does scanning, she sets up</p> <p>4 appointments, she'll set up patients for radiology, she'll help</p> <p>5 out sometimes scheduling a patient for procedure if she -- to</p> <p>6 help me out, or when she's at the other facility, she'll help</p> <p>7 me schedule procedures.</p> <p>8 Q And where does Karla Southerland work?</p> <p>9 A At 1 Prospect Park West, Suite C.</p> <p>10 Q Suite C. And what does she do?</p> <p>11 A She schedules surgeries for Dr. Collon and Dr. Yanke and</p> <p>12 gets authorizations for their patient surgeries.</p> <p>13 Q Now, is it a fact that all five of you perform all of your</p> <p>14 work in Suite C at 1 Prospect Park West?</p> <p>15 A When we're altogether at Suite C, yes.</p> <p>16 Q And other than the three days in the office that you had</p> <p>17 to be moved for the flood, over the last -- since 2010, you've</p> <p>18 all worked at 1 Prospect Park West?</p> <p>19 A From 2010, yes.</p> <p>20 Q And is it a fact that since 2010, none of you have worked</p> <p>21 at New York Methodist Hospital on 6th Street in the hospital</p> <p>22 building on 6th Street.</p> <p>23 A No, we have not worked there.</p> <p>24 Q Do you maintain patient charts? Are there patient charts?</p> <p>25 A Actual paper charts?</p>	<p style="text-align: right;">Page 174</p> <p>1 that.</p> <p>2 The CERNER system keeps the hospital medical records for</p> <p>3 patients.</p> <p>4 A Correct.</p> <p>5 Q What records are kept in the practice records in the URO</p> <p>6 Chart system, how are they different than hospital medical</p> <p>7 records?</p> <p>8 A Okay. The URO Chart records have our visit -- it's like a</p> <p>9 paper trail, but it's electronic. So there would be the</p> <p>10 doctor's notes, labs, x-ray reports, demographics, insurance</p> <p>11 information, letters to doctors, referrals, and the ones for</p> <p>12 the hospital deal only -- our charts are not going to bind with</p> <p>13 CERNER, they're kept separate.</p> <p>14 Q And do you know why they're kept separate?</p> <p>15 A Because those are medical records from the hospital</p> <p>16 patients and the hospital, they're not our private practice</p> <p>17 patients. But when our private practice patients are in the</p> <p>18 hospital, I have access to those records.</p> <p>19 Q So if your private practice patient goes into the hospital</p> <p>20 then there's going to be a hospital record for the time the</p> <p>21 patient's in the hospital.</p> <p>22 A In the CERNER, yes.</p> <p>23 Q And if the patient is only being seen by the private</p> <p>24 practice then it's just in the URO Chart system.</p> <p>25 A The visit, yes, but any tests that are done by Methodist</p>
<p style="text-align: right;">Page 173</p> <p>1 Q No.</p> <p>2 A What do you mean, I'm sorry?</p> <p>3 Q Other -- do you have a system called URO Chart?</p> <p>4 A Yes, we do.</p> <p>5 Q Okay. What is URO Chart?</p> <p>6 A An EMR system, an electrical medical records.</p> <p>7 HEARING OFFICER SCHAFFER: Like E-u-r-o?</p> <p>8 Q Is that a system that the practice has, urology practice?</p> <p>9 A Dr. Grunberger, yes.</p> <p>10 Q And is that a different system than the hospital has for</p> <p>11 its medical records?</p> <p>12 A Yes.</p> <p>13 Q What are the differences between the urology practice's</p> <p>14 medical records system and the hospital's medical record</p> <p>15 system?</p> <p>16 A Okay. The hospital has a CERNER system.</p> <p>17 Q Cerner?</p> <p>18 A C-E-R-N-E-R.</p> <p>19 Q Okay.</p> <p>20 A Where the hospital medical records are stored for patients</p> <p>21 from the hospital, and our practice has our records for the</p> <p>22 practice patients.</p> <p>23 Q Now, what records are maintained in the -- what you refer</p> <p>24 to as the practice records, patient practice records at the</p> <p>25 urology clinic or practice, what kind of -- let me withdraw</p>	<p style="text-align: right;">Page 175</p> <p>1 are on the CERNER.</p> <p>2 Q As opposed to the URO Chart system.</p> <p>3 A Well, we get it and scan it into our charts.</p> <p>4 Q Now, if there's a problem with the URO Chart system, do</p> <p>5 you have a vendor to fix that? Who maintains the URO Chart</p> <p>6 system?</p> <p>7 A The URO Chart company.</p> <p>8 Q Okay. And what's that name?</p> <p>9 A I'm not -- I don't know.</p> <p>10 Q Would that be Doctor.com?</p> <p>11 A No, it is not.</p> <p>12 Q Is there a software called Doctor.com?</p> <p>13 A Yes, there is.</p> <p>14 Q What is that?</p> <p>15 A That is our appointment system.</p> <p>16 Q Would you describe what the appointment system is for the</p> <p>17 private practice of urology? I'm not trying to --</p> <p>18 HEARING OFFICER SCHAFFER: _____</p> <p>19 go ahead.</p> <p>20 MR. FRANK: Well, I'm trying not to use MSO to create</p> <p>21 confusion.</p> <p>22 HEARING OFFICER SCHAFFER: Okay.</p> <p>23 MR. FRANK: But I am talking about the urology practice.</p> <p>24 HEARING OFFICER SCHAFFER: Okay.</p> <p>25 BY MR. FRANK:</p>

<p style="text-align: right;">Page 176</p> <p>1 Q What is the doctor.com?</p> <p>2 A Doctor.com is the system where we make appointments when a</p> <p>3 patient calls, we enter their demographics, their name onto an</p> <p>4 appointment schedule, that's where our schedules are kept.</p> <p>5 Q And is that a system separate from any system at New York</p> <p>6 Methodist Hospital?</p> <p>7 A Yes, it is.</p> <p>8 Q Now, when you say that the -- the private practice. What</p> <p>9 do you mean by private practice?</p> <p>10 A I call it a private practice because when I started with</p> <p>11 Dr. Grunberger, it was his private practice, and it -- to me</p> <p>12 it's always a private practice. When he came to Methodist, he</p> <p>13 established a private practice, and that was his -- that's why</p> <p>14 it's called Brooklyn Urology. It used to be Brooklyn Urology,</p> <p>15 P.C.</p> <p>16 Q And now he's in a different P.C.?</p> <p>17 A He is part of -- the way they -- well, how do I --</p> <p>18 HEARING OFFICER SCHAFFER: <small>What's the P.C. name?</small></p> <p>19 THE WITNESS: The Parkslope Physician Services I think is</p> <p>20 part of the group, they're on there.</p> <p>21 BY MR. PARK:</p> <p>22 Q And Parkslope Physician Services is a group of many</p> <p>23 specialty physicians?</p> <p>24 A Yes, from Methodist.</p> <p>25 Q And these doctors who have private practice, they get</p>	<p style="text-align: right;">Page 178</p> <p>1 A Not for me.</p> <p>2 Q Who gives you your assignments?</p> <p>3 A My assignments are routinely always the same, nobody</p> <p>4 assigns me anything. I know what I have to do.</p> <p>5 Q Now, do the physicians sometimes work in offices other</p> <p>6 than 1 Prospect Park West?</p> <p>7 A Yes.</p> <p>8 Q And do the staff of urology go with the physicians to</p> <p>9 their other offices when they do go?</p> <p>10 A Some of them do.</p> <p>11 Q And who does that?</p> <p>12 A The staff that goes?</p> <p>13 Q Yes.</p> <p>14 A Okay. Anna Kaufman and Laura Shea, they go to the 86th</p> <p>15 Street office with Dr. Zoltan on Tuesdays and Wednesdays.</p> <p>16 HEARING OFFICER SCHAFFER: <small>On Tuesdays and Wednesdays.</small></p> <p>17 THE WITNESS: No, 86th Street in Diker Heights.</p> <p>18 HEARING OFFICER SCHAFFER: Okay.</p> <p>19 THE WITNESS: When they're -- Dr. Collon has an office on</p> <p>20 Fridays at Linden Boulevard where he sees patients. He takes</p> <p>21 one of the ladies, one of the administrative assistants or one</p> <p>22 of the ladies in the front with him on that day, and he'll take</p> <p>23 either an MA or an LPN to help him.</p> <p>24 HEARING OFFICER SCHAFFER: <small>Did you say an MA?</small></p> <p>25 THE WITNESS: Medical assistant, I don't -- yeah.</p>
<p style="text-align: right;">Page 177</p> <p>1 services from MSO of Kings County?</p> <p>2 MR. FELSTINER: Objection.</p> <p>3 HEARING OFFICER SCHAFFER: <small>If you know.</small></p> <p>4 MR. FELSTINER: If you know.</p> <p>5 BY MR. FRANK:</p> <p>6 Q Have you ever heard of MSO of Kings County?</p> <p>7 A I've heard of it, yes.</p> <p>8 Q And do your paychecks say MSO of Kings County?</p> <p>9 A My paycheck mentions MSO Kings County, yes.</p> <p>10 Q Now, have you seen Erica Cordero in the last three years?</p> <p>11 You said that you had seen her in April 2008.</p> <p>12 A Gina Cordero.</p> <p>13 Q Gina Cordero, I'm sorry. Have you seen her since -- in</p> <p>14 the last three years?</p> <p>15 A Yes, I saw her -- I can't remember exactly when. I have</p> <p>16 seen her in maybe last year. At some point, she came to the</p> <p>17 office one time.</p> <p>18 Q Did she say anything to you or?</p> <p>19 A She said hi, and she was covering -- it was some time</p> <p>20 after Erica left, that she came by the office. When it exactly</p> <p>21 was, I don't remember, but I remember saying hi to her.</p> <p>22 Q And who is the office manager for urology?</p> <p>23 A Suzanne Dinnerstein.</p> <p>24 Q And does Ms. Dinnerstein make assignments of employees</p> <p>25 what they're going to work on for each day?</p>	<p style="text-align: right;">Page 179</p> <p>1 HEARING OFFICER SCHAFFER: <small>On LPN, okay.</small></p> <p>2 THE WITNESS: Dr. Grunberger -- I'm sorry, Dr. Grunberger</p> <p>3 goes on Wednesdays to the Greenpoint office. He has a</p> <p>4 secretary there. And sometimes they'll take an LPN or if they</p> <p>5 need somebody to cover for the one that's designated for there.</p> <p>6 BY MR. FRANK:</p> <p>7 Q But in all of these situations, whoever goes with the</p> <p>8 physician to their other offices, is someone who regularly</p> <p>9 works at 1 Prospect Park West, right, in urology Suite C?</p> <p>10 HEARING OFFICER SCHAFFER: <small>On Tuesdays and Wednesdays.</small></p> <p>11 of where they're not working at these other locations, are</p> <p>12 those employees working at 1 Prospect Park West?</p> <p>13 THE WITNESS: Well, that's why, because this one girl that</p> <p>14 works at Greenpoint and works at Diker, does not come to 1</p> <p>15 Prospect Park West.</p> <p>16 Q Who's not involved in --</p> <p>17 A Her name is --</p> <p>18 Q No, all of the people in the petitioned for unit in</p> <p>19 urology will go to these other locations.</p> <p>20 HEARING OFFICER SCHAFFER: <small>On Tuesdays and Wednesdays.</small></p> <p>21 that goes from Diker Heights to Greenpoint.</p> <p>22 MR. FRANK: They're not involved in this case.</p> <p>23 HEARING OFFICER SCHAFFER: <small>I'm just asking.</small></p> <p>24 MR. FRANK: I don't know.</p> <p>25 HEARING OFFICER SCHAFFER: <small>On Tuesdays and Wednesdays.</small></p>

<p style="text-align: right;">Page 180</p> <p>1 THE WITNESS: Yvonna Pietrzyk.</p> <p>2 HEARING OFFICER SCHAFFER: <small>She's been present in</small></p> <p>3 involved, all right, at least that's what the employer eluded</p> <p>4 to. Okay. Oh, she is on. Oh, hang on. All right. So the --</p> <p>5 just to clarify, the employer -- she's on the initial list of</p> <p>6 employees in the unit --</p> <p>7 MR. FRANK: She's an RN.</p> <p>8 HEARING OFFICER SCHAFFER: <small>... 4000 Kays County</small></p> <p>9 MR. FRANK: She's an RN.</p> <p>10 THE WITNESS: Yvonna is not an RN.</p> <p>11 HEARING OFFICER SCHAFFER: <small>She's listed as an office</small></p> <p>12 assistant.</p> <p>13 THE WITNESS: Yes, she is.</p> <p>14 HEARING OFFICER SCHAFFER: <small>That would be correct for</small></p> <p>15 question. Iwona Pietrzyk.</p> <p>16 MR. FRANK: Who?</p> <p>17 HEARING OFFICER SCHAFFER: <small>She's listed as an office</small></p> <p>18 assistant on attachment B of the MSO County initial list of</p> <p>19 employees, she's fifth from the bottom.</p> <p>20 (Pause)</p> <p>21 HEARING OFFICER SCHAFFER: <small>Not other than -- or that</small></p> <p>22 person doesn't work at 1 Prospect Place West.</p> <p>23 THE WITNESS: Correct.</p> <p>24 HEARING OFFICER SCHAFFER: <small>Yes, that's the location.</small></p> <p>25 is everyone else that works at -- that goes to the 86th Street</p>	<p style="text-align: right;">Page 182</p> <p>1 HEARING OFFICER SCHAFFER: <small>You can tell him.</small></p> <p>2 THE WITNESS: Yeah, sometimes in the back of the office or</p> <p>3 outside in the park, yeah.</p> <p>4 Q And how many clinical assistants work in the office. Does</p> <p>5 Melinda Feliciano?</p> <p>6 A Yes.</p> <p>7 Q What does she do?</p> <p>8 A She sees patients, she does the procedures in the office.</p> <p>9 Q Is she an LPN?</p> <p>10 A Yes, she is.</p> <p>11 Q And Janet Gonzalez, what does she do?</p> <p>12 A She does front desk, she receives the patients when</p> <p>13 they're coming in.</p> <p>14 Q Is she an LPN?</p> <p>15 A No.</p> <p>16 Q Does she work in Suite C all the time?</p> <p>17 A Yes.</p> <p>18 Q And does Milecia -- Melinda work in Suite C all the time?</p> <p>19 A Yes.</p> <p>20 Q And Alexandrya Holder?</p> <p>21 A Sometimes they go to the other office, though, like I</p> <p>22 mentioned when they make them.</p> <p>23 Q Okay.</p> <p>24 HEARING OFFICER SCHAFFER: <small>To office at different</small></p> <p>25 locations?</p>
<p style="text-align: right;">Page 181</p> <p>1 office, the Greenpoint office, those people work all the other</p> <p>2 days of the week at 1 Prospect Park West.</p> <p>3 THE WITNESS: Yes. But to back her --</p> <p>4 HEARING OFFICER SCHAFFER: <small>That's the only practice</small></p> <p>5 I'm just asking about the people that --</p> <p>6 THE WITNESS: She comes to the office sometimes too.</p> <p>7 HEARING OFFICER SCHAFFER: <small>Is there someone to go</small></p> <p>8 office?</p> <p>9 THE WITNESS: Sometimes like if the doctors are not going</p> <p>10 to their offices over there --</p> <p>11 HEARING OFFICER SCHAFFER: Uh-huh.</p> <p>12 THE WITNESS: -- the office manager will bring her into</p> <p>13 the office so she can work with her.</p> <p>14 HEARING OFFICER SCHAFFER: <small>When frequently does that</small></p> <p>15 happen?</p> <p>16 THE WITNESS: Not that happen, when a doctor's on vacation</p> <p>17 or something, yeah.</p> <p>18 HEARING OFFICER SCHAFFER: Okay.</p> <p>19 BY MR. FRANK:</p> <p>20 Q Now, is it also -- is it a fact that none of the</p> <p>21 administrative assistants go to work on 6th Street in the</p> <p>22 hospital building?</p> <p>23 A They do not.</p> <p>24 Q Now, where do you have lunch every day, in the office or</p> <p>25 in the neighborhood?</p>	<p style="text-align: right;">Page 183</p> <p>1 THE WITNESS: At different locations, yeah, that I</p> <p>2 mentioned before.</p> <p>3 HEARING OFFICER SCHAFFER: Okay.</p> <p>4 BY MR. FRANK:</p> <p>5 Q So they will go to the other urology practice offices.</p> <p>6 A Yes.</p> <p>7 Q But not to the hospital.</p> <p>8 A No.</p> <p>9 HEARING OFFICER SCHAFFER: <small>What about those that...</small></p> <p>10 if you know, who tells those employees to go work at another</p> <p>11 location on a given day?</p> <p>12 THE WITNESS: The office manager.</p> <p>13 Q And who is that?</p> <p>14 A Suzanne Dinnerstein.</p> <p>15 Q Alexandrya Holder, is she an office assistant?</p> <p>16 A Yes.</p> <p>17 Q And what does she do?</p> <p>18 A She works at the front desk.</p> <p>19 Q In Suite C?</p> <p>20 A Yes.</p> <p>21 Q Is she an LPN?</p> <p>22 A No.</p> <p>23 HEARING OFFICER SCHAFFER: <small>Is there any other...</small></p> <p>24 THE WITNESS: Alexandrya.</p> <p>25 HEARING OFFICER SCHAFFER: <small>Oh, Alexandrya Holder?</small></p>

<p style="text-align: right;">Page 184</p> <p>1 THE WITNESS: Uh-huh. 2 BY MR. FRANK: 3 Q And Leslie Marks? 4 A (No response) 5 Q Is she an office assistant? 6 A Honestly I don't know what her title is. 7 Q If you don't know, that's the perfect answer. 8 A Yeah. 9 Q Does she work in Suite C? 10 A (No response) 11 Q Do you see her working there occasionally? 12 A I do not see her. 13 HEARING OFFICER SCHAFFER: <small>Do you know who she is?</small> 14 THE WITNESS: (No response) 15 HEARING OFFICER SCHAFFER: <small>If you've --</small> 16 THE WITNESS: I've met her once or twice before, yes. 17 HEARING OFFICER SCHAFFER: Okay. 18 BY MR. FRANK: 19 Q Iwona Pietrzyk. I'm sure I'm pronouncing that wrong. How 20 should I pronounce it? 21 A I don't pronounce her last name either, but her first name 22 is pronounced Yvonna, even though it has a W. 23 Q Iwona. Okay. What does she do? Is she a clinical office 24 assistant? 25 A Yes.</p>	<p style="text-align: right;">Page 186</p> <p>1 Q And what does she do? 2 A She sees patients, she does procedures with the doctors. 3 She's the medical assistant that goes to Diker Heights on 4 Tuesdays and Wednesdays with Dr. Zoltan. Thursdays and Fridays 5 she's at 1 Prospect Park West. She does procedures with the 6 doctors. 7 Q Is it accurate to -- when you say that somebody goes to 8 Diker Heights or one of these other locations, that's going to 9 one of the five physicians other private practice office? 10 A They see patients there. 11 Q But one -- Diker Heights is one of the physicians private 12 practice office. 13 A Yes, they see patients. 14 Q And is it a fact that all of the employees who work in the 15 urology practice, work exclusively for the urology practice at 16 1 Prospect Park West or at one of the physicians other offices? 17 A Yes. 18 Q Okay. And that none of the employees work in the hospital 19 building of Methodist Hospital on 6th Street. 20 A The staff? 21 Q Yes. 22 A Yes. 23 Q Now, do you know if the same is true for the physician 24 assistants? 25 A (No response)</p>
<p style="text-align: right;">Page 185</p> <p>1 Q And where does she work? 2 A This is the person that goes to 126 Greenpoint Avenue in 3 Diker Heights and -- 4 Q And sometimes comes to 1 Prospect. 5 HEARING OFFICER SCHAFFER: <small>Is 126 and 1 Prospect --</small> 6 there two locations that she works at or just -- 7 THE WITNESS: Two, the 126 Greenpoint Avenue on Wednesdays 8 and Tuesdays, she's at the Diker on 86th Street. 9 HEARING OFFICER SCHAFFER: <small>Does she work at 126</small> 10 know, Monday, Thursday and Friday? 11 THE WITNESS: She has something else that she does, she's 12 part-time. 13 HEARING OFFICER SCHAFFER: <small>All right.</small> 14 BY MR. FRANK: 15 Q And Erica McCullough, what does she do? 16 A Erica, she sees patients. 17 Q Is she an LPN? 18 A Yes. 19 Q Does she work in Suite C? 20 A Yes. 21 Q To your knowledge, do any of the employees that we've just 22 discussed work any time at the hospital building on 6th Street? 23 A No, not to my knowledge. 24 Q What does Anna Kaufman do? 25 A She's the medical assistant.</p>	<p style="text-align: right;">Page 187</p> <p>1 Q Do you know the physician assistants? 2 A Yes, I do. 3 Q Okay. And is that Kristen Sigona. 4 A Sigona. 5 Q Sigona. And is the other physician assistant -- do you 6 know her name? Abigail? 7 A Abigail Ketner. 8 Q Abigail Ketner. 9 A Yes. 10 Q Okay. And do they work in Suite C? 11 A Yes, they do. 12 Q And do you know what a physician assistant does? 13 A Yes. 14 Q What do they do? 15 A She sees -- they see patients, they'll issue refills for 16 the patients for medications, they'll give out the results at 17 times when the doctors tell them to give out results. They'll 18 interview patients before the doctor sees them. They change 19 catheters when they come in, they do voiding trials, they give 20 injections. 21 Q And do the two physician assistants work in Suite C? 22 A Yes. 23 Q And they work there every day? 24 A Sometimes one of them will be called over to cover at one 25 of the other locations, but otherwise, yes.</p>

<p style="text-align: right;">Page 188</p> <p>1 Q But they don't work in the hospital?</p> <p>2 A No.</p> <p>3 THE WITNESS: Can I take a break?</p> <p>4 MR. FRANK: You can take a break.</p> <p>5 HEARING OFFICER SCHAFFER: <small>We can take a break.</small></p> <p>6 THE WITNESS: May I go to the restroom?</p> <p>7 HEARING OFFICER SCHAFFER: <small>Yeah, yeah, all right.</small></p> <p>8 MR. FRANK: Can I just finish?</p> <p>9 HEARING OFFICER SCHAFFER: <small>Oh, yeah, all right.</small></p> <p>10 BY MR. FRANK:</p> <p>11 Q Melissa Han, do you know?</p> <p>12 A Melissa Han?</p> <p>13 Q What?</p> <p>14 A I'm thinking, hold on. Melissa Han, yes. She's -- yes, I</p> <p>15 know who she is.</p> <p>16 Q Is she a registered nurse?</p> <p>17 A Yes, she is. She's one of the one --</p> <p>18 Q And where does she work?</p> <p>19 HEARING OFFICER SCHAFFER: <small>-----</small></p> <p>20 MR. FRANK: I'm just trying to get a picture of who all's</p> <p>21 in the office.</p> <p>22 THE WITNESS: At 1 Prospect Park West, Suite C.</p> <p>23 BY MR. FRANK:</p> <p>24 Q And what does she do?</p> <p>25 A She's the registered nurse that sees patients and helps</p>	<p style="text-align: right;">Page 190</p> <p>1 Q How do you report your time for payroll purposes?</p> <p>2 A Punch in. We punch in and out.</p> <p>3 Q And what do you do on your computer?</p> <p>4 A No, the computer at the front desk.</p> <p>5 Q At the front desk of?</p> <p>6 A 1 Prospect --</p> <p>7 Q Brooklyn Urology?</p> <p>8 A Yes.</p> <p>9 Q Is there a sign that says Brooklyn Urology at the front</p> <p>10 door?</p> <p>11 A On our door, to the --</p> <p>12 Q Yes.</p> <p>13 A -- internal office, yes.</p> <p>14 Q It says Brooklyn Urology.</p> <p>15 A It says Brooklyn Urology and Dr. Grunberger's name is on</p> <p>16 there and I believe Dr. Zoltan and Collon. Not all the</p> <p>17 doctors' name, definitely Grunberger's is there.</p> <p>18 Q Okay. But it does say Brooklyn Urology.</p> <p>19 A Says Brooklyn Urology.</p> <p>20 HEARING OFFICER SCHAFFER: <small>-----</small></p> <p>21 THE WITNESS: Suite C.</p> <p>22 HEARING OFFICER SCHAFFER: <small>-----</small></p> <p>23 computer at the front desk that you're talking about that you</p> <p>24 punch on, that's the front desk at Suite C?</p> <p>25 THE WITNESS: Yes.</p>
<p style="text-align: right;">Page 189</p> <p>1 the doctors.</p> <p>2 Q And she spends all of her time at Suite C, 1 Prospect Park</p> <p>3 West or one of the offices?</p> <p>4 A She spends her time at Suite C.</p> <p>5 MR. FRANK: We can take a break.</p> <p>6 HEARING OFFICER SCHAFFER: Okay.</p> <p>7 (Recessed at 3:22 p.m.; reconvened at 3:45 p.m.)</p> <p>8 BY MR. FRANK:</p> <p>9 Q When -- have you ever requested a vacation?</p> <p>10 A Yes.</p> <p>11 Q Who do your make your vacation requests to?</p> <p>12 A We have a standard MYM vacation request paper, and I write</p> <p>13 Dinnerstein's name on it, my name, the dates I requested.</p> <p>14 Q So you make the request to Suzanne Dinnerstein?</p> <p>15 A Yes.</p> <p>16 Q And does she approve your request?</p> <p>17 A Yes.</p> <p>18 Q And when did you take vacation last year?</p> <p>19 A Last year?</p> <p>20 Q Or this year. When's the last time you took vacation?</p> <p>21 A I've taken a couple of days off a couple of weeks back.</p> <p>22 Q Okay. And you made the request to Ms. Dinnerstein?</p> <p>23 A Yes.</p> <p>24 Q And she approved it each time?</p> <p>25 A Yes.</p>	<p style="text-align: right;">Page 191</p> <p>1 HEARING OFFICER SCHAFFER: <small>Go ahead.</small></p> <p>2 BY MR. FRANK:</p> <p>3 Q Now, did you get a pay increase last year?</p> <p>4 HEARING OFFICER SCHAFFER: <small>-----</small></p> <p>5 that?</p> <p>6 Q In November, did you get a 3 percent pay increase?</p> <p>7 A November, no.</p> <p>8 Q When did you get the pay increase last year?</p> <p>9 A Last year?</p> <p>10 Q Yeah, 2015.</p> <p>11 A Maybe -- I assume February/March of 2015.</p> <p>12 Q Okay. Early in the year, early in 2015?</p> <p>13 A Yes.</p> <p>14 Q Beginning of 2015.</p> <p>15 A Yes.</p> <p>16 Q And was that pay increase given to you by MSO of Kings</p> <p>17 County?</p> <p>18 A I'm not sure.</p> <p>19 Q Can I have you look at Exhibit 5, U-5, please? And if you</p> <p>20 look at the second page in 2011.</p> <p>21 A Uh-huh.</p> <p>22 Q Does it say that your employer is MSO of Kings County?</p> <p>23 A MSO Kings County, care of New York Methodist.</p> <p>24 Q But it says MSO King County.</p> <p>25 A It does say MSO Kings County care of New York Methodist,</p>

Page 192	Page 194
<p>1 yes.</p> <p>2 Q And there's a new employer number there, isn't it, 27 --</p> <p>3 A I --</p> <p>4 Q Do you see that? 27238733.</p> <p>5 A I see the number, yes.</p> <p>6 Q Okay. And is that a different number from 2010 where it</p> <p>7 says New York Methodist Hospital and the number. What was the</p> <p>8 number on the first page in box B?</p> <p>9 A 11-1631796.</p> <p>10 Q So the employer changed from 2010 to 2011?</p> <p>11 MR. FELSTINER: Objection. That's asking for a legal</p> <p>12 conclusion as to who her employer is.</p> <p>13 HEARING OFFICER SCHAFFER: <small>...on the other side</small></p> <p>14 BY MR. FRANK:</p> <p>15 Q Well, you were given --</p> <p>16 HEARING OFFICER SCHAFFER: <small>...on the other side</small></p> <p>17 whether --</p> <p>18 Q Were you given papers to sign for a new employment number</p> <p>19 in 2010?</p> <p>20 A No, I was not.</p> <p>21 Q What papers did Mr. Buchanan give you?</p> <p>22 A A W-2 and -- I mean, a W-4 and I guess the I-9.</p> <p>23 Q And what was the reason that you had to fill out new</p> <p>24 paperwork?</p> <p>25 A For payroll, I was told for payroll.</p>	<p>1 A Yeah, they handed that folder.</p> <p>2 Q Okay. And is it accurate to say that since that time in</p> <p>3 2011, every one of your paychecks have said MSO?</p> <p>4 A I can't say that every paycheck has said MSO.</p> <p>5 Q Well, if you look at -- now this is Exhibit 5.</p> <p>6 A You're asking for paychecks.</p> <p>7 Q If we look at the 2012, this lists your employer as MSO</p> <p>8 Kings County.</p> <p>9 HEARING OFFICER SCHAFFER: <small>...on the other side</small></p> <p>10 oh, you're going back to that. I think the witness is</p> <p>11 concerned about the every paycheck. Have you looked at every</p> <p>12 paycheck?</p> <p>13 THE WITNESS: I look at my paycheck but I can't remember</p> <p>14 if all of them say MSO on them.</p> <p>15 HEARING OFFICER SCHAFFER: <small>Okay. But --</small></p> <p>16 BY MR. FRANK:</p> <p>17 Q Do you recall any paycheck in the last three years that</p> <p>18 didn't say MSO of Kings County?</p> <p>19 HEARING OFFICER SCHAFFER: <small>...on the other side</small></p> <p>20 asking. I think the witness has testified that -- do you get</p> <p>21 your paychecks -- do you get a physical paycheck or is it</p> <p>22 direct deposit?</p> <p>23 THE WITNESS: Direct deposit.</p> <p>24 HEARING OFFICER SCHAFFER: <small>Okay. But --</small></p> <p>25 physical paycheck every week?</p>
Page 193	Page 195
<p>1 Q And were you told that the employer was changing to MS --</p> <p>2 to become MSO of Kings County?</p> <p>3 HEARING OFFICER SCHAFFER: <small>...on the other side</small></p> <p>4 THE WITNESS: I'm just making sure before I answer. I was</p> <p>5 not told that the employer was going to be MSO.</p> <p>6 BY MR. FRANK:</p> <p>7 Q When did you first hear that the practice was MSO of Kings</p> <p>8 County?</p> <p>9 MR. FELSTINER: I'm sorry, can you repeat those last</p> <p>10 words, please?</p> <p>11 Q When did you first hear that the practice was called MSO</p> <p>12 of Kings County?</p> <p>13 A I have never heard that the practice is called MSO of</p> <p>14 Kings County.</p> <p>15 HEARING OFFICER SCHAFFER: <small>...on the other side</small></p> <p>16 heard about MSO?</p> <p>17 THE WITNESS: The word MSO, when I filled out those</p> <p>18 papers, the W-4, but not that they were going to be my</p> <p>19 employers.</p> <p>20 Q So when you filled out the papers, you saw MSO?</p> <p>21 A They told us that it was -- yeah, that we needed to file</p> <p>22 new forms for the pay.</p> <p>23 Q So in 2010, you saw MSO?</p> <p>24 A Not in 2010. I said about 2011 I said.</p> <p>25 Q Okay. In 2011 you saw MSO.</p>	<p>1 THE WITNESS: I look at that.</p> <p>2 HEARING OFFICER SCHAFFER: <small>...on the other side</small></p> <p>3 I'm referring to --</p> <p>4 MR. FRANK: U-6.</p> <p>5 HEARING OFFICER SCHAFFER: -- U-6.</p> <p>6 THE WITNESS: Yes.</p> <p>7 HEARING OFFICER SCHAFFER: <small>...on the other side</small></p> <p>8 THE WITNESS: The office manager hands me an envelope that</p> <p>9 brings, you know, the original of that.</p> <p>10 HEARING OFFICER SCHAFFER: Okay.</p> <p>11 BY MR. FRANK:</p> <p>12 Q And who's the office manager that gives you --</p> <p>13 A Suzanne Dinnerstein.</p> <p>14 Q Okay. Looking at Exhibit U-6 --</p> <p>15 A Uh-huh.</p> <p>16 Q -- it says MSO of Kings County LLC at the top, do you see</p> <p>17 that?</p> <p>18 A Yes, it says that, care of New York Methodist.</p> <p>19 Q Isn't it a fact that every paycheck you've received since</p> <p>20 2011 has said MSO of Kings County LLC at the top, just like</p> <p>21 this one?</p> <p>22 A One second, I'll say that I cannot say that -- I would</p> <p>23 have to look at them, to make sure that they all say it. I</p> <p>24 can't say all of them say it.</p> <p>25 Q Do you recall any --</p>

Page 196	Page 198
<p>1 HEARING OFFICER SCHAFFER: <small>He asks her about it.</small></p> <p>2 question.</p> <p>3 MR. FRANK: I understand about everyone.</p> <p>4 Q Do you recall any check that didn't say MSO of Kings</p> <p>5 County LLC?</p> <p>6 HEARING OFFICER SCHAFFER: <small>He asks her about it.</small></p> <p>7 Mr. Franks (sic), and I -- the witness -- if the witness has</p> <p>8 testified that she has to look at them, the same would be true</p> <p>9 for the negative question. I understand your point, I'd ask</p> <p>10 that you move on.</p> <p>11 MR. FRANK: Well, the reason I'm doing this is because U-9</p> <p>12 that the union put in suggests otherwise.</p> <p>13 HEARING OFFICER SCHAFFER: <small>He asks her about it.</small></p> <p>14 MR. FRANK: U-9 is a document she created for the</p> <p>15 litigation and it's listing this --</p> <p>16 HEARING OFFICER SCHAFFER: <small>He asks her about it.</small></p> <p>17 that's -- the document was obtained for the purposes of</p> <p>18 litigation, the witness didn't testify that she created the</p> <p>19 document.</p> <p>20 MR. FELSTINER: I'm sorry, I would have to object, she did</p> <p>21 not testify that it was obtained for the purpose of litigation,</p> <p>22 she testified that it was obtained after the date of petition.</p> <p>23 HEARING OFFICER SCHAFFER: <small>It was obtained --</small></p> <p>24 MR. FELSTINER: She actually testified that it was not</p> <p>25 obtained for the purpose of litigation.</p>	<p>1 requested the document from.</p> <p>2 MR. FRANK: I would like -- I think I can cross-examine --</p> <p>3 HEARING OFFICER SCHAFFER: <small>He asks her about it.</small></p> <p>4 the document was then sent to. The document has -- it states</p> <p>5 for itself who it was sent to, and I'm not going to -- I don't</p> <p>6 think it's appropriate for you to question the witness about</p> <p>7 the purpose of the document, the document's purpose outside of</p> <p>8 the scope of this hearing.</p> <p>9 BY MR. FRANK:</p> <p>10 Q Isn't it in fact that in 2012, you were not working at New</p> <p>11 York Methodist Hospital on 6th Street?</p> <p>12 A (No response)</p> <p>13 HEARING OFFICER SCHAFFER: <small>He asks her about it.</small></p> <p>14 New York Methodist Hospital on 6th Street?</p> <p>15 THE WITNESS: I have not -- no, I was not working at New</p> <p>16 York Methodist Hospital, 506 6th Street.</p> <p>17 Q And that is a fact as of May 30th, 2012, correct, that you</p> <p>18 were not working at Methodist Hospital on 6th Street?</p> <p>19 HEARING OFFICER SCHAFFER: <small>Is that correct?</small></p> <p>20 THE WITNESS: Yes.</p> <p>21 HEARING OFFICER SCHAFFER: <small>He asks her about it.</small></p> <p>22 this document, right?</p> <p>23 THE WITNESS: No, I did not.</p> <p>24 Q Did you ask somebody to create this document?</p> <p>25 A I requested a document, a verification of employment.</p>
Page 197	Page 199
<p>1 HEARING OFFICER SCHAFFER: <small>He asks her about it.</small></p> <p>2 testify that she created the document.</p> <p>3 BY MR. FRANK:</p> <p>4 Q Why did you request that someone provide you with Exhibit</p> <p>5 U-8 in May of 2012?</p> <p>6 MR. FELSTINER: I'm about to object unless --</p> <p>7 HEARING OFFICER SCHAFFER: <small>He asks her about it.</small></p> <p>8 speaks for itself, and I'm not going to allow -- I just want to</p> <p>9 tread lightly around whatever -- let's go off the record for a</p> <p>10 second. Let's go off the record.</p> <p>11 (Pause)</p> <p>12 HEARING OFFICER SCHAFFER: <small>He asks her about it.</small></p> <p>13 on the record why you think is relevant.</p> <p>14 MR. FRANK: U-8 refers to the employee working at the</p> <p>15 hospital. She has previously testified that she does not work</p> <p>16 at the hospital, so I want to inquire into that specific U-8.</p> <p>17 HEARING OFFICER SCHAFFER: <small>He asks her about it.</small></p> <p>18 incorrect. The document speaks for itself. The document has a</p> <p>19 date, it has who it's from, it has who it's to, it references</p> <p>20 the individual that it's referencing. Whether -- if someone</p> <p>21 wants to draw an inference from that, that's fine, but you're</p> <p>22 asking if this document was -- the purpose --</p> <p>23 MR. FRANK: The witness previously testified she requested</p> <p>24 the document.</p> <p>25 HEARING OFFICER SCHAFFER: <small>He asks her about it.</small></p>	<p>1 Q And did you request that the document say that you worked</p> <p>2 at Methodist Hospital?</p> <p>3 A No, I did not. I requested a document of employment,</p> <p>4 verification of employment.</p> <p>5 Q When you filled out Exhibit U-4, did you list your</p> <p>6 employer as MSO of Kings County LLC?</p> <p>7 A I do not remember.</p> <p>8 HEARING OFFICER SCHAFFER: <small>He asks her about it.</small></p> <p>9 appears that there's something missing from -- because there's</p> <p>10 no actual -- none of these forms appear to have a location for</p> <p>11 the employee to fill out the question you just asked, right,</p> <p>12 whether their employer is.</p> <p>13 MR. FRANK: I will make inquiry.</p> <p>14 HEARING OFFICER SCHAFFER: Okay.</p> <p>15 BY MR. FRANK:</p> <p>16 Q Do you have copies of any other policies and procedures</p> <p>17 similar to Exhibit U-3?</p> <p>18 A Other than the original orientation or this goes to this?</p> <p>19 Q No, that was U-3.</p> <p>20 A Okay. The question again?</p> <p>21 Q Do you have any other policies in your possession besides</p> <p>22 U-3?</p> <p>23 MS. WILCOX: The document that was submitted was the</p> <p>24 policies.</p> <p>25 MR. FRANK: My question is, do you have any other --</p>

<p style="text-align: right;">Page 200</p> <p>1 THE WITNESS: Amended. 2 BY MR. FRANK: 3 Q Any other policy and procedure documents similar to U-3. 4 A No. 5 Q Do you wear a uniform at work? 6 A No. 7 Q Do any of the employees of Brooklyn Urology wear uniforms? 8 A You mean scrubs? 9 Q Any kind of uniforms. Uniforms. 10 A Not uniforms, they wear scrubs and a white coat. 11 Q What are the hours of work at the urology practice, Monday 12 through Friday? 13 A Yeah, Monday through Friday. 14 Q And you start at what time? 15 A I start at 9 to 5. 16 Q And do all the employees work Monday to Friday schedules 17 or part-time schedules? 18 A (No response) 19 Q I'm sorry. 20 A The ones that are in the office with me, yeah, but -- 21 Q Is the office closed on Saturday and Sunday? 22 A Yes. 23 Q And is the office closed in the evenings and nights? 24 A After the last patient leaves, yeah. 25 Q It's not a 24/7 operation like the hospital?</p>	<p style="text-align: right;">Page 202</p> <p>1 Q Well, when patients call you at the desk, do you give them 2 directions on how to get to the practice? 3 A Yes, I do. 4 Q Do you refer them to the website at times? 5 A No, I don't. 6 Q And how -- you give them directions to come to 1 Prospect 7 Park West? 8 A Yes, I do. 9 Q And do you also give directions to go to the other offices 10 if necessary? 11 A Yes, I do. 12 Q Now, was there a time maybe a year, year and a half ago 13 that you had a dispute with another employee in the office? 14 A A year or year and a half. 15 Q Did you go to the office manager about resolving a dispute 16 in the office? 17 A Honestly I don't remember. I don't remember honestly. 18 Q Do you know Joann Kennedy? 19 A I've met her. 20 Q And what is her position? 21 A She works at human resources. 22 Q For the MSO Urology? 23 A I'm not sure. Honestly I don't know if she's Methodist or 24 MSO or not, I don't know exactly. 25 Q And you've gone to discuss job issues with her at any</p>
<p style="text-align: right;">Page 201</p> <p>1 A No. 2 Q Does Brooklyn Urology maintain a website? 3 A They have -- yeah, they have a website, it's called 4 Brooklyn Uro. 5 Q Brooklyn Uro. And what's on the Brooklyn Uro's website? 6 A It has like information about the doctors and the 7 practice. I really haven't gone recently on it. 8 HEARING OFFICER SCHAFFER: _____ 9 on it? 10 THE WITNESS: Years. 11 HEARING OFFICER SCHAFFER: _____ Years ago? 12 THE WITNESS: Years ago. 13 BY MR. FRANK: 14 Q And is the website Brooklyn Uro, B-r-o-o-k-l-y-n, 15 U-r-o.com? 16 A I think it's the word Brooklyn spelled out and Uro at the 17 end, yes. 18 Q And does this have information for patients about coming 19 to the practice? 20 A (No response) 21 HEARING OFFICER SCHAFFER: _____ If you know. 22 THE WITNESS: I'm not sure. I don't get on it anymore. 23 Q Does the website provide telephone number and location of 24 the practice? 25 A I believe it does.</p>	<p style="text-align: right;">Page 203</p> <p>1 time? 2 A No, I have not. 3 Q You only go to Suzanne -- 4 (Cell phone ringing) 5 Q So if you have any issues at work, you only go to Suzanne? 6 A I would go to her, yes. 7 Q And has she been able to resolve all of your issues? 8 MR. FELSTINER: Objection to form. 9 HEARING OFFICER SCHAFFER: _____ 10 about who she goes to if disputes arise at work is relevant and 11 in terms of who adjusts them, but whether they're ongoing 12 issues at work, just -- 13 MR. FRANK: I was asking her about it. 14 MR. FELSTINER: That's -- that was assuming that she has 15 had disputes. 16 HEARING OFFICER SCHAFFER: _____ Right. I'm not -- 17 MR. FELSTINER: She hasn't testified that anything has 18 ever come up, or that she's ever gone to the office manager for 19 a -- 20 HEARING OFFICER SCHAFFER: _____ Right. I'm just asking -- 21 define what I'm going to allow. 22 MR. FRANK: Okay. Well. 23 BY MR. FRANK: 24 Q Did you ask for permission to be off from work today? 25 A I sent a message to the office manager this morning that I</p>

Page 204	Page 206
<p>1 would have to be back here, yes, I did. 2 Q Okay. And who did you tell? 3 A Suzanne Dinnerstein. 4 Q And you told her you received a subpoena to come here 5 today and testify? 6 A I told her that I had to come back in today because I did 7 not testify yesterday. 8 Q Have you ever been disciplined at work at Brooklyn Urology 9 or whatever -- 10 A You mean in op, no. 11 Q Have you -- 12 HEARING OFFICER SCHAFFER: <small>Will -- go ahead.</small> 13 Q Have you ever called in sick? 14 A Of course. 15 Q Who do you call when you call in sick? 16 A Suzanne Dinnerstein or Dr. Ivan Grunberger. 17 Q Did you get a New York State form telling you how much you 18 get paid? Did you get a state notice on what your paycheck is 19 and what your pay status is? 20 A I'm not sure. I don't -- 21 HEARING OFFICER SCHAFFER: <small>You have to speak up.</small> 22 THE WITNESS: I'm not sure what that is, sorry. 23 MR. FRANK: I have no further questions. 24 HEARING OFFICER SCHAFFER: <small>Okay. You have to speak up.</small> 25 talking about -- he's asking if you had -- the state form.</p>	<p>1 anesthesia and -- 2 Q You mentioned scheduling in the office or in the hospital. 3 Are procedures performed in both places? 4 A Yes. 5 Q When you say in the hospital, where do you mean? 6 A In the OR, for the OR. 7 Q Which hospital are you referring to? 8 A At New York Methodist Hospital. 9 HEARING OFFICER SCHAFFER: <small>-----</small> 10 at other hospitals? 11 THE WITNESS: No. 12 HEARING OFFICER SCHAFFER: <small>-----</small> 13 asking because it was Presbyterian before, New York 14 Presbyterian, is there a connection between New York Methodist 15 and New York Presbyterian? 16 MR. FELSTINER: Yes, we have the -- 17 HEARING OFFICER SCHAFFER: <small>-----</small> 18 that a matter -- 19 MR. FELSTINER: It could be a dispute, but I can't 20 (indiscernible). 21 HEARING OFFICER SCHAFFER: Okay. 22 MR. FRANK: I don't think it has any relevance to this 23 case. 24 HEARING OFFICER SCHAFFER: <small>-----</small> 25 MR. FELSTINER: <small>It came up because of her the suffix of</small></p>
Page 205	Page 207
<p>1 It's a state form the state requires, that's why he was asking. 2 Go ahead, Mr. Felstiner. 3 REDIRECT EXAMINATION 4 BY MR. FELSTINER: 5 Q You testified that you scheduled surgeries for doctors. 6 A Yes. 7 Q Which doctors again? 8 A Dr. Grunberger, Edward Zoltan, Dr. Shulz and I cover for 9 Collon and Yanke when Karla's not available. 10 Q What does scheduling a surgery for a doctor involve, for 11 you? 12 A For me? I speak to the patient, the patient is brought 13 into my office, I give them a date. We go through the 14 calendar, pick a date for their procedure for their surgery, 15 whether it be in the office or at the hospital. 16 I explain whatever information I have on the procedure if 17 the patient is not clear on what he's not having done. I talk 18 to him about the steps of pre-surgical testing, that they will 19 get a call from New York Methodist Hospital for pre-testing, if 20 they need clearances I give them a form, a letter, to give to 21 their medical doctor or cardiologist for clearance. 22 I authorize the insurance if it -- if the procedure needs 23 authorization, I get authorizations from the insurance. If 24 they need fees because they're self-pay, we'll contact people 25 from the hospital to get the prices for the hospital. Fees and</p>	<p>1 her e-mail address. 2 HEARING OFFICER SCHAFFER: <small>-----</small> 3 address is NYP and so I'm asking. But if you want to wait for 4 the documents, I just -- I'm a recent transplant to New York so 5 if the whole world knows there's a connection and it's not me, 6 you know, I -- all right. We can get testimony about it, I am 7 curious as to why your e-mail address is New York P or NYP, so 8 if you don't want to answer now, we can get testimony about it. 9 Go ahead, Mr. Felstiner. 10 BY MR. FELSTINER: 11 Q Who -- sorry. So you were saying -- 12 MR. FRANK: I didn't know -- for the record, I didn't know 13 that curiosity was a legal standard. 14 MR. FELSTINER: Is that in the record? 15 HEARING OFFICER SCHAFFER: <small>That's in the record.</small> 16 MR. FELSTINER: Before I continue, okay. 17 Q So -- 18 HEARING OFFICER SCHAFFER: <small>-----</small> 19 in the hospital. 20 MR. FELSTINER: Yes, I was, of course. 21 Q And so procedures performed at both the facility 1 22 Prospect Park West and also in the hospital. 23 A Yes. 24 Q You scheduled procedures in both locations? 25 A Correct.</p>

<p style="text-align: right;">Page 208</p> <p>1 Q Who performs those procedures?</p> <p>2 A The doctors, either Dr. Grunberger, Collon, Yanke, Schulz,</p> <p>3 Zoltan.</p> <p>4 Q Who do you contact at the hospital to get the fee</p> <p>5 information?</p> <p>6 A Pre-admitting.</p> <p>7 Q Any particular person or just a department?</p> <p>8 A I can't recall her name.</p> <p>9 Q And how do they -- how does the space in the OR at the</p> <p>10 hospital get reserved?</p> <p>11 A I fill out a book-in sheet, and I fax it over to the</p> <p>12 booking department at the OR for the OR.</p> <p>13 Q It's not done on a computer system.</p> <p>14 A No.</p> <p>15 Q It's faxed.</p> <p>16 A It's faxed.</p> <p>17 Q What information do you put on the book-in sheet?</p> <p>18 A Patient's name, address, insurance, procedure the patient</p> <p>19 is having, any allergies the patient might have, the date of</p> <p>20 when the procedure is going to be, the doctor's name that's</p> <p>21 doing the surgery, and my name as the contact and send it in.</p> <p>22 Q Who determines that a patient needs surgery?</p> <p>23 A The doctor.</p> <p>24 Q Does the doctor determine where the surgery will occur?</p> <p>25 A Yes, whether it's at the hospital or at the office.</p>	<p style="text-align: right;">Page 210</p> <p>1 patients.</p> <p>2 Q Are there patients that you interact with who are patients</p> <p>3 of the urology facility and also patients of New York Methodist</p> <p>4 Hospital? Let me rephrase that.</p> <p>5 Are there patients that visit the facility at 1 Prospect</p> <p>6 Park West and also receive medical services at the buildings</p> <p>7 located in and around 6th Street, known as the New York</p> <p>8 Methodist Hospital campus?</p> <p>9 A Yes, we have -- we get patients from the urology clinic</p> <p>10 that we have to schedule sometimes procedures in the office.</p> <p>11 Q Where is the urology clinic located?</p> <p>12 A At New York Methodist Hospital, but I'm not sure which</p> <p>13 building is in right now.</p> <p>14 Q Are they referred there?</p> <p>15 A Yes.</p> <p>16 Q Actually from there to Prospect Park West?</p> <p>17 A Usually a doctor covering the clinic will either call or</p> <p>18 have one of the assistants that works with them call us at the</p> <p>19 office to schedule it.</p> <p>20 Q Which doctors cover the clinic at the urology center?</p> <p>21 MR. FRANK: Objection on relevance grounds.</p> <p>22 HEARING OFFICER SCHAFFER: <small>overruled</small></p> <p>23 --</p> <p>24 MR. FELSTINER: Yeah.</p> <p>25 HEARING OFFICER SCHAFFER: <small>Ask it that way.</small></p>
<p style="text-align: right;">Page 209</p> <p>1 Q Is there any difference in the surgeries that occur at the</p> <p>2 office versus the hospital?</p> <p>3 A Big differences, yes.</p> <p>4 Q Like what are the differences?</p> <p>5 A The cases that are done at the hospital are more -- bigger</p> <p>6 cases, more invasive I guess, they're like robotic surgery,</p> <p>7 open surgeries. At the office is minor surgeries, so</p> <p>8 cystectomies or (indiscernible), truss (ph), different -- less</p> <p>9 invasive procedures are done in the office.</p> <p>10 Q Who performs the surgeries at the hospital?</p> <p>11 A The doctors.</p> <p>12 HEARING OFFICER SCHAFFER: <small>Is it the doctors that work at</small></p> <p>13 Brooklyn --</p> <p>14 THE WITNESS: Dr. Grunberger, Dr. Collon, Dr. Zoltan and</p> <p>15 Dr. Schulz, yes.</p> <p>16 Q Would a doctor ever tell you to schedule a surgery for</p> <p>17 their patient at the hospital? Let me rephrase that.</p> <p>18 Has one of the doctors at Brooklyn -- at the urology</p> <p>19 facility ever instructed you to schedule a surgery at the</p> <p>20 hospital --</p> <p>21 A Yes.</p> <p>22 Q -- for that doctor to perform?</p> <p>23 A Yes.</p> <p>24 Q How often does that happen?</p> <p>25 A Everyday. I do it Monday through Friday, I schedule</p>	<p style="text-align: right;">Page 211</p> <p>1 Q Okay. Do any of the doctors who work at least part of the</p> <p>2 time at Prospect Park West also staff the urology clinic?</p> <p>3 MR. FRANK: Objection.</p> <p>4 HEARING OFFICER SCHAFFER: <small>Overruled.</small></p> <p>5 MR. FRANK: What's the relevance what the physicians do to</p> <p>6 this case?</p> <p>7 MR. FELSTINER: <small>It goes to common management, which is one</small></p> <p>8 of the factors.</p> <p>9 MR. FRANK: Common management --</p> <p>10 HEARING OFFICER SCHAFFER: <small>Are going to allow the</small></p> <p>11 question.</p> <p>12 MR. FELSTINER: It comes to common interest.</p> <p>13 HEARING OFFICER SCHAFFER: <small>Is any other doctor that work</small></p> <p>14 at Brooklyn Urology also work at the clinic?</p> <p>15 THE WITNESS: They cover the clinic, yes.</p> <p>16 HEARING OFFICER SCHAFFER: Okay.</p> <p>17 BY MR. FELSTINER:</p> <p>18 Q Are they on a particular schedule of coverage that you</p> <p>19 know of?</p> <p>20 HEARING OFFICER SCHAFFER: <small>If you know.</small></p> <p>21 THE WITNESS: Yes. Dr. Schulz covers the clinic but right</p> <p>22 now she's on maternity leave coming back in May, so one of the</p> <p>23 other doctors, either Zoltan or Yanke will go to the clinic.</p> <p>24 Q Have you ever contacted one of the doctors that you've</p> <p>25 referred to here at the clinic, have you ever contacted them</p>

Page 212	Page 214
<p>1 there?</p> <p>2 A Have I called them there?</p> <p>3 Q Sure.</p> <p>4 A I don't call them at the clinic, I'll text them, but I</p> <p>5 won't call them.</p> <p>6 Q Have you ever called Dr. Grunberger's office?</p> <p>7 A Yes.</p> <p>8 Q Who do you speak to?</p> <p>9 HEARING OFFICER SCHAFFER: <small>...to the office</small></p> <p>10 office do you mean?</p> <p>11 MR. FELSTINER: Yes, I'm sorry.</p> <p>12 Q Earlier you testified his office is -- at New York</p> <p>13 Methodist in Milner, in Minor.</p> <p>14 HEARING OFFICER SCHAFFER: <small>I think it's Minor</small></p> <p>15 Q So have you called that office location?</p> <p>16 A Yes.</p> <p>17 Q Who do you speak to when you call?</p> <p>18 A I'll speak to his secretary, Lilly, and then the doctor if</p> <p>19 he's there.</p> <p>20 Q You testified as to CERNER. Do you ever access the CERNER</p> <p>21 system?</p> <p>22 A Yes, I do.</p> <p>23 Q Can you access it from 1 Prospect Park?</p> <p>24 A Yes.</p> <p>25 Q At which computer terminal?</p>	<p>1 THE WITNESS: Yes.</p> <p>2 HEARING OFFICER SCHAFFER: <small>...to New York</small></p> <p>3 THE WITNESS: Yes.</p> <p>4 BY MR. FELSTINER:</p> <p>5 Q About how often?</p> <p>6 HEARING OFFICER SCHAFFER: <small>If you know?</small></p> <p>7 THE WITNESS: A couple of times a week.</p> <p>8 Q Do you know the name of the program you used to punch in</p> <p>9 to record your hours?</p> <p>10 A Formos.</p> <p>11 Q Do you ever give patients directions to the urology</p> <p>12 clinic?</p> <p>13 A I give them the phone number.</p> <p>14 Q Do you ever give patients directions to the OR for a</p> <p>15 procedure?</p> <p>16 A Yes, I do.</p> <p>17 Q Has Ms. Dinnerstein ever -- strike that.</p> <p>18 The urology practice -- facility at 1 Prospect West, do</p> <p>19 you use medical supplies there? I assume that you do, medical</p> <p>20 supplies.</p> <p>21 A Yes, they do.</p> <p>22 Q Do you know where they come from?</p> <p>23 A Yeah, they come from the hospital.</p> <p>24 Q How are they ordered?</p> <p>25 HEARING OFFICER SCHAFFER: <small>...to the hospital</small></p>
Page 213	Page 215
<p>1 A My computer.</p> <p>2 Q For what purpose?</p> <p>3 A For -- if I need radiology reports or labs that were done</p> <p>4 on a patient at the hospital, for any tests being ordered or if</p> <p>5 the doctor tells me to get them the lab that was done or</p> <p>6 radiology that was done there, I can open it up and print it</p> <p>7 out.</p> <p>8 Q To your knowledge, any other employees who work at that</p> <p>9 location have access to CERNER?</p> <p>10 HEARING OFFICER SCHAFFER: <small>The radiology location?</small></p> <p>11 MR. FELSTINER: Yes, the 1 Prospect Park.</p> <p>12 THE WITNESS: Yes, we do, yeah.</p> <p>13 BY MR. FELSTINER:</p> <p>14 Q Does Ms. Dinnerstein ever visit the New York Methodist</p> <p>15 Hospital buildings located in or around 6th Street?</p> <p>16 MR. FRANK: Objection unless there's a foundation if she</p> <p>17 knows.</p> <p>18 HEARING OFFICER SCHAFFER: <small>If you know.</small></p> <p>19 MR. FELSTINER: We asked her as to what every other single</p> <p>20 person in the office does, so.</p> <p>21 HEARING OFFICER SCHAFFER: <small>...and I asked if you know, she</small></p> <p>22 most of his questions.</p> <p>23 Q If you know.</p> <p>24 HEARING OFFICER SCHAFFER: <small>If you know, then Mr.</small></p> <p>25 Dinnerstein --</p>	<p>1 from the hospital?</p> <p>2 THE WITNESS: Because I've ordered supplies before.</p> <p>3 HEARING OFFICER SCHAFFER: <small>And how do you --</small></p> <p>4 THE WITNESS: There's a form that we have to put that says</p> <p>5 the list of gauze and table paper and (indiscernible).</p> <p>6 HEARING OFFICER SCHAFFER: <small>What about the form?</small></p> <p>7 THE WITNESS: The form we check it off and we fax it over</p> <p>8 to Lizette, I don't know her number, but I know it's Lizette.</p> <p>9 HEARING OFFICER SCHAFFER: <small>...to the hospital</small></p> <p>10 look like? Has it got a logo on it or everything? Does it</p> <p>11 have --</p> <p>12 THE WITNESS: No logo, I just think it says --</p> <p>13 HEARING OFFICER SCHAFFER: <small>...to the hospital</small></p> <p>14 supply request form, anything like that?</p> <p>15 THE WITNESS: I can't recall if it says that right now.</p> <p>16 HEARING OFFICER SCHAFFER: <small>Okay, and you fax that</small></p> <p>17 document to?</p> <p>18 THE WITNESS: Yeah, fax it over to the hospital, I know</p> <p>19 the person Lizette.</p> <p>20 HEARING OFFICER SCHAFFER: <small>Lizette?</small></p> <p>21 THE WITNESS: Yeah.</p> <p>22 HEARING OFFICER SCHAFFER: <small>Okay, the person who</small></p> <p>23 department Lizette lives in or what?</p> <p>24 THE WITNESS: She sorts the supplies.</p> <p>25 HEARING OFFICER SCHAFFER: <small>...to the hospital</small></p>

Page 216	Page 218
<p>1 office, how do they get there?</p> <p>2 THE WITNESS: The courier brings them, he delivers them to</p> <p>3 us, the same person that picks up the mail.</p> <p>4 HEARING OFFICER SCHAFFER: <small>She says, Mr. Frank, do you see</small></p> <p>5 to pick up --</p> <p>6 MR. FELSTINER: I wanted to follow-up on that.</p> <p>7 BY MR. FELSTINER:</p> <p>8 Q It's also the same person that does the linen?</p> <p>9 A Yes, she brings the linen too.</p> <p>10 HEARING OFFICER SCHAFFER: <small>What is the person's name?</small></p> <p>11 a label on the box?</p> <p>12 THE WITNESS: They'll put NYM on marker and then whatever</p> <p>13 the label of whatever supplies it is.</p> <p>14 HEARING OFFICER SCHAFFER: <small>What is the person's name?</small></p> <p>15 label on it? A shipping label on it?</p> <p>16 THE WITNESS: I'm not sure of the shipping labels.</p> <p>17 HEARING OFFICER SCHAFFER: <small>What is the person's name?</small></p> <p>18 delivers the supplies is not like a UPS person or a FedEx</p> <p>19 person or a U.S. mail person.</p> <p>20 THE WITNESS: No.</p> <p>21 HEARING OFFICER SCHAFFER: <small>All right. Continue.</small></p> <p>22 BY MR. FELSTINER:</p> <p>23 Q Any of the people working regularly in the 1 Prospect Park</p> <p>24 West building to pick up supplies in person by hand?</p> <p>25 MR. FRANK: Objection unless she knows.</p>	<p>1 A Yeah, like Botox. Like I ordered Botox that comes by</p> <p>2 mail.</p> <p>3 Q So you get supplies for the office from places other than</p> <p>4 Methodist Hospital?</p> <p>5 A I get medications, not supplies like paper towels and</p> <p>6 that, that comes from the hospital, and paper rolls and --</p> <p>7 Q And does the hospital charge the practice for the paper</p> <p>8 towels?</p> <p>9 A I don't know.</p> <p>10 Q Now, the clinic, the urology clinic that's at the hospital</p> <p>11 --</p> <p>12 A Yes, it is.</p> <p>13 Q -- and isn't it a fact that you do not do any work at the</p> <p>14 urology clinic.</p> <p>15 A No, I do not.</p> <p>16 Q And isn't it a fact that none of the employees at 1</p> <p>17 Prospect Park, Suite C the urology practice, other than the</p> <p>18 physicians work at the clinic?</p> <p>19 A Correct.</p> <p>20 Q So it's only the physicians who work at the clinic.</p> <p>21 A Correct.</p> <p>22 Q Now, do doctors have assigned blocks of time where they</p> <p>23 can use the OR?</p> <p>24 A Yes, they do.</p> <p>25 Q So your primary doctor has a block of time that is his to</p>
Page 217	Page 219
<p>1 Q If you know.</p> <p>2 A I'm not sure.</p> <p>3 MR. FELSTINER: I don't have anything else.</p> <p>4 HEARING OFFICER SCHAFFER: <small>What is the person's name?</small></p> <p>5 RE-CROSS-EXAMINATION</p> <p>6 BY MR. FRANK:</p> <p>7 Q Is the practice charged for supplies --</p> <p>8 A I'm sorry?</p> <p>9 Q Is the urology practice charged for the supplies that it</p> <p>10 purchases?</p> <p>11 A I do not know.</p> <p>12 Q Does a bill -- do you ever see bills come for supplies</p> <p>13 that are used in the offices?</p> <p>14 A I don't deal with bills.</p> <p>15 Q Would you know if any bills come for the supplies that are</p> <p>16 purchased?</p> <p>17 A From medical supplies?</p> <p>18 Q Yes.</p> <p>19 A If they're the ones not coming from the hospital, because</p> <p>20 they do get supplies from other places, too.</p> <p>21 HEARING OFFICER SCHAFFER: <small>What is the person's name?</small></p> <p>22 from other --</p> <p>23 THE WITNESS: Yeah. They get from the hospital and --</p> <p>24 Q And do those supplies come by UPS or other delivery</p> <p>25 services?</p>	<p>1 use for performing surgery, correct?</p> <p>2 A Yes.</p> <p>3 Q And when you call to book surgeries, your --</p> <p>4 MR. FELSTINER: (indiscernible)</p> <p>5 MR. FRANK: What?</p> <p>6 MR. FELSTINER: You can't -- you're mischaracterizing</p> <p>7 testimony. She didn't testify that she calls to book</p> <p>8 surgeries.</p> <p>9 Q Do you call to book surgeries?</p> <p>10 A No, I fax over --</p> <p>11 HEARING OFFICER SCHAFFER: <small>What is the person's name?</small></p> <p>12 Q Fax.</p> <p>13 A Yeah.</p> <p>14 Q Okay. When you fax over to the surgery center, is it to</p> <p>15 use the doctor's allocated time, and to tell the surgery who</p> <p>16 the patients are going to be?</p> <p>17 A Yes, but at times they ask for the dates that are not on</p> <p>18 their log time.</p> <p>19 Q And do you do this communication all by fax?</p> <p>20 A The booking itself?</p> <p>21 Q Yes.</p> <p>22 A Yes.</p> <p>23 HEARING OFFICER SCHAFFER: <small>What is the person's name?</small></p> <p>24 block time.</p> <p>25 THE WITNESS: Yeah.</p>

<p style="text-align: right;">Page 220</p> <p>1 HEARING OFFICER SCHAFFER: Okay.</p> <p>2 BY MR. FRANK:</p> <p>3 Q And is it generally true that the clinic patients are not</p> <p>4 patients of urology practice, 1 Prospect Park West?</p> <p>5 A Okay. If they're seen at the clinic, and then they come</p> <p>6 to our office sometimes they do become our patients.</p> <p>7 Q But except -- if they don't come to your office</p> <p>8 separately, clinic patients are not urology -- Brooklyn Urology</p> <p>9 practice patients, correct?</p> <p>10 A I can't answer for all of them, but -- I'm not sure. I</p> <p>11 really am not sure because --</p> <p>12 HEARING OFFICER SCHAFFER: <small>He really is unsure.</small></p> <p>13 --</p> <p>14 Q A hospital operates a urology clinic, correct --</p> <p>15 A Yes.</p> <p>16 Q -- on 6th Street.</p> <p>17 A Right.</p> <p>18 Q That urology clinic is separate from your practice on 1</p> <p>19 Prospect Park West.</p> <p>20 A It is separate, yes.</p> <p>21 Q And the hospital maintains that urology clinic.</p> <p>22 A I guess, yeah.</p> <p>23 Q Hospital urology clinic, correct?</p> <p>24 A Yes. I guess, I'm not sure, if anybody else takes care of</p> <p>25 it.</p>	<p style="text-align: right;">Page 222</p> <p>1 HEARING OFFICER SCHAFFER: <small>He really is unsure.</small></p> <p>2 exactly -- and I think it's clear the point you're trying to</p> <p>3 make, I just don't know --</p> <p>4 MR. FRANK: Hospital population is very different than</p> <p>5 private practice population.</p> <p>6 HEARING OFFICER SCHAFFER: <small>He really is unsure.</small></p> <p>7 I just don't know that the witness can answer the question as</p> <p>8 to most or rare at this point.</p> <p>9 MR. FELSTINER: It's clear that counsel is --</p> <p>10 HEARING OFFICER SCHAFFER: <small>That's fine.</small></p> <p>11 (Pause)</p> <p>12 BY MR. FRANK:</p> <p>13 Q Do you have any special licenses for -- as a healthcare</p> <p>14 provider?</p> <p>15 A No.</p> <p>16 Q If the front desk at 1 Prospect West, Suite C is full, do</p> <p>17 you work in the back office with the administrative assistants?</p> <p>18 A My office is in the back.</p> <p>19 Q Do you ever sit at the front desk?</p> <p>20 A If I have to cover. If I cover for somebody up front,</p> <p>21 yes.</p> <p>22 Q And when you cover for somebody at the front, you answer</p> <p>23 the telephone like they do in the normal course.</p> <p>24 A Correct.</p> <p>25 HEARING OFFICER SCHAFFER: <small>He really is unsure.</small></p>
<p style="text-align: right;">Page 221</p> <p>1 HEARING OFFICER SCHAFFER: <small>That's fine.</small></p> <p>2 clinic patients come to Brooklyn Urology.</p> <p>3 THE WITNESS: Correct, they don't all come to Brooklyn</p> <p>4 Urology.</p> <p>5 HEARING OFFICER SCHAFFER: Okay.</p> <p>6 BY MR. FRANK:</p> <p>7 Q Isn't it a fact that most patients do not come --</p> <p>8 HEARING OFFICER SCHAFFER: <small>Most is --</small></p> <p>9 Q Isn't it -- a clinic patient -- isn't it a fact that</p> <p>10 clinic --</p> <p>11 HEARING OFFICER SCHAFFER: <small>He really is unsure.</small></p> <p>12 it's --</p> <p>13 Q Is it rare for a clinic patient to come to Brooklyn</p> <p>14 Urology?</p> <p>15 HEARING OFFICER SCHAFFER: <small>He really is unsure.</small></p> <p>16 MR. FELSTINER: Objection.</p> <p>17 Q Infrequent. What word?</p> <p>18 HEARING OFFICER SCHAFFER: <small>He really is unsure.</small></p> <p>19 question, she would have to know how many employees or I'm</p> <p>20 sorry, how many patients the clinic had total and it's just not</p> <p>21 -- I don't think you're going to get anything out of it either.</p> <p>22 MR. FELSTINER: It's also calling -- it's testifying about</p> <p>23 a place that she doesn't work, so it calls --</p> <p>24 HEARING OFFICER SCHAFFER: Right.</p> <p>25 MR. FELSTINER: -- for speculation.</p>	<p style="text-align: right;">Page 223</p> <p>1 Like once a month?</p> <p>2 THE WITNESS: Once every couple of months.</p> <p>3 HEARING OFFICER SCHAFFER: Okay.</p> <p>4 BY MR. FRANK:</p> <p>5 Q Do you answer the phone?</p> <p>6 A I answer the phones, yes, I do.</p> <p>7 Q And you say what, Brooklyn Urology?</p> <p>8 A Yes, I do.</p> <p>9 Q Do you send letters to patients?</p> <p>10 A Contact letters?</p> <p>11 Q Do you send letters to patients?</p> <p>12 A I've mailed out stuff, yes.</p> <p>13 Q And the letterhead that you send patients to, does it say</p> <p>14 Brooklyn Urology?</p> <p>15 A Yes, it does.</p> <p>16 Q Do you ever get involved in sterilizing equipment?</p> <p>17 A No.</p> <p>18 Q Is that something the LPNs do?</p> <p>19 A Yes.</p> <p>20 Q Okay. The clinical assistants?</p> <p>21 A Yes.</p> <p>22 Q Okay. So -- and is it true that you do not give</p> <p>23 injections?</p> <p>24 A I do not give injections.</p> <p>25 Q That's something that the clinical assistants do.</p>

Page 224	Page 226
<p>1 A Yes.</p> <p>2 Q Okay. You don't have a license to do that?</p> <p>3 A No, I do not.</p> <p>4 Q And am I correct that you do not take any vital signs like</p> <p>5 blood pressure?</p> <p>6 A I do not.</p> <p>7 Q You don't take temperatures or draw blood or take weights?</p> <p>8 A I do not.</p> <p>9 MR. FRANK: I have no further questions.</p> <p>10 HEARING OFFICER SCHAFFER: <small>When you get up an hour late for</small></p> <p>11 When -- if you get -- say you show up an hour late for</p> <p>12 work, I don't know if you've ever done that. Have you ever</p> <p>13 done that before, or just been late to work?</p> <p>14 THE WITNESS: If there's problems on trains, because I</p> <p>15 travel from New Jersey.</p> <p>16 HEARING OFFICER SCHAFFER: <small>who would you report to about the</small></p> <p>17 you have to explain -- who would you report to about the</p> <p>18 trouble on the train?</p> <p>19 THE WITNESS: Suzanne Dinnerstein and Dr. Ivan Grunberger.</p> <p>20 MR. FRANK: Can I hear the -- what was the end of that? I</p> <p>21 heard Susan Dinnerstein and --</p> <p>22 THE WITNESS: And Dr. Ivan Grunberger.</p> <p>23 HEARING OFFICER SCHAFFER: <small>I think you answered this question before, but I just want to</small></p> <p>24 I think you answered this question before, but I just want to</p> <p>25 come back to it. In terms of -- have you ever been informally</p>	<p>1 public record about patient communications with a physician</p> <p>2 practice.</p> <p>3 HEARING OFFICER SCHAFFER: <small>going to try to ask it to avoid that kind of thing. If there's</small></p> <p>4 going to try to ask it to avoid that kind of thing. If there's</p> <p>5 ever been a time when a patient has complained about a staff</p> <p>6 member, do you know who might talk to the staff member about</p> <p>7 addressing that issue, just the person.</p> <p>8 MR. FRANK: I object to the form of the question.</p> <p>9 MR. FELSTINER: Us too.</p> <p>10 MR. FRANK: The office manager, but I mean, it's an</p> <p>11 improper question.</p> <p>12 HEARING OFFICER SCHAFFER: <small>might redress -- who might discuss issues with the employer --</small></p> <p>13 might redress -- who might discuss issues with the employer --</p> <p>14 with the employees if there is -- if a disciplinary situation</p> <p>15 arises. I think you've tried to get -- you asked questions</p> <p>16 trying to get the answer to that, the union -- I'm just trying</p> <p>17 to ask it in a way that you know fit the workplace that the</p> <p>18 employees work at, so.</p> <p>19 MR. FRANK: My objection is to involvement of any kind of</p> <p>20 patient communication issues, like attorney/client privilege,</p> <p>21 the doctor/patient privilege is the same kind of issue.</p> <p>22 HEARING OFFICER SCHAFFER: Okay.</p> <p>23 MR. FRANK: If your question is, who would talk to</p> <p>24 employees about bad --</p> <p>25 HEARING OFFICER SCHAFFER: About --</p>
Page 225	Page 227
<p>1 disciplined or had a situation at work where someone said like,</p> <p>2 do this differently next time, in terms of either filling</p> <p>3 paperwork out wrong, or something like that? Has anything like</p> <p>4 that happened? I'm asking not to get you in trouble, but just</p> <p>5 to try to figure out?</p> <p>6 THE WITNESS: No. I mean --</p> <p>7 HEARING OFFICER SCHAFFER: <small>paperwork incorrectly?</small></p> <p>8 paperwork incorrectly?</p> <p>9 THE WITNESS: Paperwork incorrectly? I'm not sure I have.</p> <p>10 HEARING OFFICER SCHAFFER: Okay.</p> <p>11 THE WITNESS: I mean I do it every day, so I'm human, I</p> <p>12 can make mistakes.</p> <p>13 HEARING OFFICER SCHAFFER: <small>know if anyone else has ever done something like that?</small></p> <p>14 know if anyone else has ever done something like that?</p> <p>15 THE WITNESS: I don't know.</p> <p>16 HEARING OFFICER SCHAFFER: <small>Do you know if anyone's ever been fired from your office</small></p> <p>17 Do you know if anyone's ever been fired from your office</p> <p>18 or terminated?</p> <p>19 THE WITNESS: I'm not sure.</p> <p>20 HEARING OFFICER SCHAFFER: <small>ever complained about a staff member?</small></p> <p>21 ever complained about a staff member?</p> <p>22 MR. FRANK: Objection.</p> <p>23 HEARING OFFICER SCHAFFER: <small>I'll explain why I'm --</small></p> <p>24 I'll explain why I'm --</p> <p>25 MR. FRANK: I would object to you asking or inquiring in a</p>	<p>1 MR. FRANK: If somebody didn't perform --</p> <p>2 HEARING OFFICER SCHAFFER: <small>that's what I'm asking.</small></p> <p>3 that's what I'm asking.</p> <p>4 MR. FRANK: Who would do --</p> <p>5 HEARING OFFICER SCHAFFER: <small>MR. FRANK: My concern is patients.</small></p> <p>6 MR. FRANK: My concern is patients.</p> <p>7 HEARING OFFICER SCHAFFER: <small>I'm asking who speaks to the employees if they -- not about the</small></p> <p>8 I'm asking who speaks to the employees if they -- not about the</p> <p>9 contents of the communication, but who might communicate with</p> <p>10 the employee.</p> <p>11 MR. FRANK: We have no objection to asking the witness</p> <p>12 that question.</p> <p>13 MS. WILCOX: If she knows.</p> <p>14 MR. FELSTINER: If she knows.</p> <p>15 HEARING OFFICER SCHAFFER: <small>MR. FELSTINER: But that's hypothetical, to be based on.</small></p> <p>16 MR. FELSTINER: But that's hypothetical, to be based on.</p> <p>17 HEARING OFFICER SCHAFFER: <small>in the past.</small></p> <p>18 in the past.</p> <p>19 MR. FELSTINER: If it has happened?</p> <p>20 HEARING OFFICER SCHAFFER: <small>MR. FELSTINER: Okay.</small></p> <p>21 MR. FELSTINER: Okay.</p> <p>22 HEARING OFFICER SCHAFFER: <small>about their job performance?</small></p> <p>23 about their job performance?</p> <p>24 THE WITNESS: Either the office manager Suzanne</p> <p>25 Dinnerstein or any of the doctors.</p>

Page 228	Page 230
<p>1 HEARING OFFICER SCHAFFER: <small>Heb. 30:1-32:1</small></p> <p>2 does a doctor give you direction on a daily basis? Tell you</p> <p>3 what to do in terms of filling out paperwork, let me ask it --</p> <p>4 I'm sorry.</p> <p>5 Are most of -- when you're filling out a surgical form to</p> <p>6 send over the boxes to fax over to get a surgery scheduled --</p> <p>7 THE WITNESS: Uh-huh.</p> <p>8 HEARING OFFICER SCHAFFER: <small>Heb. 30:1-32:1</small></p> <p>9 that?</p> <p>10 THE WITNESS: The doctor will come in with the patient,</p> <p>11 and tell me I'm bringing in a patient for you to schedule for</p> <p>12 whatever procedure he wants, and that's it, and then I do the</p> <p>13 paperwork.</p> <p>14 HEARING OFFICER SCHAFFER: <small>Heb. 30:1-32:1</small></p> <p>15 direction of the doctor?</p> <p>16 THE WITNESS: Correct.</p> <p>17 HEARING OFFICER SCHAFFER: <small>Heb. 30:1-32:1</small></p> <p>18 THE WITNESS: The office, Brooklyn Urology office, the</p> <p>19 doctors. The doctors or the office manager.</p> <p>20 HEARING OFFICER SCHAFFER: <small>Heb. 30:1-32:1</small></p> <p>21 there any employees that don't come in at 9 o'clock in the</p> <p>22 morning?</p> <p>23 THE WITNESS: Yes.</p> <p>24 HEARING OFFICER SCHAFFER: <small>Heb. 30:1-32:1</small></p> <p>25 employees that come in at 8 and leave at 4?</p>	<p>1 schedule for the days of the surgery.</p> <p>2 Q Sending the fax alone is not sufficient?</p> <p>3 A Sending the fax is to book the case, to put the case on</p> <p>4 the schedule, but to finalize the schedule I do that the day</p> <p>5 before I get a copy of the schedule of all the cases I booked,</p> <p>6 or any of us has booked, we go over it with the doctor, the</p> <p>7 doctor says I want this case first, this case second, this case</p> <p>8 third, da, da, da, what room they want for the surgery, and</p> <p>9 then I have to give -- well, most of the time I speak to</p> <p>10 Felicia because she's the one in charge of finalizing the</p> <p>11 schedule.</p> <p>12 Sometimes when she's not available, I take the draft that</p> <p>13 they faxed me with -- and I put the room numbers that the</p> <p>14 doctors want, the order they want, and I can fax it back to</p> <p>15 her. But 90 percent of the time I do speak to her about the</p> <p>16 schedule.</p> <p>17 Q Do you know what Felicia's job title is?</p> <p>18 A I'm not sure.</p> <p>19 Q Do you know what department she's in?</p> <p>20 A The booking department.</p> <p>21 Q Booking department?</p> <p>22 A At New York Methodist Hospital.</p> <p>23 Q What kind of interaction do you have with the LPNs who</p> <p>24 work at 1 Prospect Park West, day-to-day basis?</p> <p>25 A I don't understand the question, I'm sorry.</p>
Page 229	Page 231
<p>1 THE WITNESS: <small>Heb. 30:1-32:1</small> There's some that come at 8, some that come</p> <p>2 at 8:30, some come at 9.</p> <p>3 HEARING OFFICER SCHAFFER: <small>Heb. 30:1-32:1</small></p> <p>4 if you wanted to switch your hours from 8 to 4, who would you</p> <p>5 talk to?</p> <p>6 THE WITNESS: The office manager and Dr. Grunberger.</p> <p>7 HEARING OFFICER SCHAFFER: <small>Heb. 30:1-32:1</small></p> <p>8 any more questions.</p> <p>9 MR. FELSTINER: I think we have two quick ones.</p> <p>10 HEARING OFFICER SCHAFFER: <small>Heb. 30:1-32:1</small></p> <p>11 FURTHER REDIRECT EXAMINATION</p> <p>12 BY MR. FELSTINER:</p> <p>13 Q When you're scheduling time in the OR, do you ever have to</p> <p>14 -- I just wasn't clear on this, do you ever have to speak with</p> <p>15 somebody in that department over the phone?</p> <p>16 A Yes, I do.</p> <p>17 Q Who do you speak with?</p> <p>18 A I speak -- after I schedule the surgeries, I have to do</p> <p>19 the OR schedule for the surgeries, I speak to either Felicia or</p> <p>20 Emma, any of the ladies that sit in book-in to arrange the</p> <p>21 schedule for the day of the procedure.</p> <p>22 Q I don't think I understand that. Sorry, that's not a</p> <p>23 question.</p> <p>24 You said you speak to somebody named Felicia?</p> <p>25 A Felicia, yeah, she's the person that finalizes the OR</p>	<p>1 Q Do you see them during the work day?</p> <p>2 A Yes.</p> <p>3 Q Do you speak to them?</p> <p>4 A Yes.</p> <p>5 Q What about?</p> <p>6 A About if there's a procedure like when we do office</p> <p>7 procedures, Monday through Wednesday right now, is covering the</p> <p>8 procedures on Melinda, so I would have to give her the</p> <p>9 paperwork for her to get together and set the times for the</p> <p>10 procedures on that specific day for her to call the patients,</p> <p>11 you know, we'd go over the procedures that I have scheduled for</p> <p>12 that doctor, for those doctors during those days.</p> <p>13 Q What, if anything, do they tell you after a procedure is</p> <p>14 complete?</p> <p>15 A What?</p> <p>16 Q What, if anything, would they tell you --</p> <p>17 A The LPN?</p> <p>18 Q Yes, the LPN.</p> <p>19 A If the patient will need another procedure, they will come</p> <p>20 into my office and say, okay, the doctor would like this</p> <p>21 patient to have this procedure next week or whenever --</p> <p>22 Q What do you do then?</p> <p>23 A -- and gives me the paperwork.</p> <p>24 Then I have to schedule the patient for the next</p> <p>25 procedure.</p>

<p style="text-align: right;">Page 232</p> <p>1 Q Okay.</p> <p>2 HEARING OFFICER SCHAFFER: <small>Heard, Frank, page 232</small></p> <p>3 are you hourly or salary?</p> <p>4 THE WITNESS: Hourly.</p> <p>5 HEARING OFFICER SCHAFFER: <small>Heard, Frank, page 232</small></p> <p>6 THE WITNESS: It says it on my paystub.</p> <p>7 HEARING OFFICER SCHAFFER: <small>Heard, Frank, page 232</small></p> <p>8 you have any other questions?</p> <p>9 FURTHER RECROSS-EXAMINATION</p> <p>10 BY MR. FRANK:</p> <p>11 Q So the record is clear, isn't it a fact that you were not</p> <p>12 involved in providing any direct patient care of the patient?</p> <p>13 A What do you mean I'm sorry?</p> <p>14 Q You don't provide care to patients directly.</p> <p>15 A If I do procedures to them and that?</p> <p>16 Q Yes.</p> <p>17 A No, I do not.</p> <p>18 Q You don't -- isn't it a fact that you do not have any</p> <p>19 responsibility to provide any care directly to the patient,</p> <p>20 you're involved in scheduling when they come into the office,</p> <p>21 it's not providing any direct patient care; is that correct?</p> <p>22 A Correct.</p> <p>23 Q Now, do you make telephone calls to vendors of the</p> <p>24 practice who are unrelated to Methodist Hospital?</p> <p>25 A The vendors that supply the equipment that they might need</p>	<p style="text-align: right;">Page 234</p> <p>1 THE WITNESS: For the practice also. For both.</p> <p>2 BY MR. FRANK:</p> <p>3 Q And when you do that, do you do separate billing for</p> <p>4 whoever is purchasing the equipment that you're ordering?</p> <p>5 A I don't bill.</p> <p>6 Q Does somebody else in the practice do billing?</p> <p>7 A I don't know that.</p> <p>8 Q Well, is all the equipment that you order, is that paid</p> <p>9 for by the practice?</p> <p>10 A I do not know that.</p> <p>11 MR. FRANK: No further questions.</p> <p>12 HEARING OFFICER SCHAFFER: <small>Heard, Frank, page 234</small></p> <p>13 for your time.</p> <p>14 MR. FRANK: Thank you very much.</p> <p>15 HEARING OFFICER SCHAFFER: <small>Heard, Frank, page 234</small></p> <p>16 longest.</p> <p>17 MR. FRANK: Off the record?</p> <p>18 HEARING OFFICER SCHAFFER: <small>Heard, Frank, page 234</small></p> <p>19 (Proceedings concluded at 4:44 p.m.)</p> <p>20</p>
<p style="text-align: right;">Page 233</p> <p>1 for surgeries at New York Methodist, yes.</p> <p>2 Q And how much of your time during the day do you spend</p> <p>3 talking on the telephone to people who are not hospital</p> <p>4 employees?</p> <p>5 A Oh, 85, 90 percent.</p> <p>6 MR. FRANK: Thank you very much, no further questions.</p> <p>7 HEARING OFFICER SCHAFFER: <small>Heard, Frank, page 233</small></p> <p>8 ordering equipment, what is that equipment for? For surgeries?</p> <p>9 THE WITNESS: There are certain procedures that, yeah,</p> <p>10 there are certain procedures that the doctors do that the</p> <p>11 equipment is not at New York Methodist Hospital, but they have</p> <p>12 to bring in the equipment for that procedure from whatever</p> <p>13 vendor like --</p> <p>14 HEARING OFFICER SCHAFFER: <small>Heard, Frank, page 233</small></p> <p>15 to send the equipment to New York Methodist?</p> <p>16 THE WITNESS: Yes, I do.</p> <p>17 MR. FRANK: No.</p> <p>18 THE WITNESS: Yes, I do.</p> <p>19 MR. FRANK: To New York Methodist or to the urology</p> <p>20 practice?</p> <p>21 THE WITNESS: No, to New York Methodist Hospital.</p> <p>22 HEARING OFFICER SCHAFFER: <small>Heard, Frank, page 233</small></p> <p>23 urology practice sometimes?</p> <p>24 THE WITNESS: Yes, I do.</p> <p>25 MR. FRANK: For the urology practice?</p>	<p style="text-align: right;">Page 235</p> <p>1 C E R T I F I C A T E</p> <p>2</p> <p>3 This is to certify that the attached proceedings done before</p> <p>4 the NATIONAL LABOR RELATIONS BOARD REGION 29</p> <p>5 In the Matter of:</p> <p>6 NEW YORK METHODIST/MSO OF KINGS COUNTY, LLC,</p> <p>7 Employer,</p> <p>8 and</p> <p>9 1199 SEIU, UNITED HEALTHCARE WORKERS EAST,</p> <p>10 Petitioner.</p> <p>11</p> <p>12</p> <p>13</p> <p>14</p> <p>15</p> <p>Case No.: 29-RC-172410</p> <p>5</p> <p>6 Date: April 6, 2016</p> <p>7</p> <p>8 Place: New York, New York</p> <p>9</p> <p>10 Were held as therein appears, and that this is the original</p> <p>11 transcript thereof for the files of the Board</p> <p>12</p> <p>13</p> <p>14</p> <p>15</p> <p style="text-align: right;">Official Reporter</p>

1	120 (1) 97:11 12076 (1) 82:17 126 (4) 166:10;185:2,5,7 15 (1) 107:22 16 (1) 107:22 160128 (1) 146:12 17 (1) 82:16 171603 (1) 109:14 171639 (1) 109:10 172410 (2) 73:23;109:5 18 (2) 163:18;165:1	134:6,7;137:5,14; 139:22;140:25; 142:9;191:20; 192:10;193:24,25; 194:3;195:20 2012 (9) 137:7;141:4,7; 142:9;194:7;197:5; 198:10,13,17 2013 (2) 137:9;142:9 2015 (9) 132:24;133:12,15, 16;157:6;191:10,11, 12,14 2016 (4) 144:17;146:9; 150:18;154:20 24/7 (1) 200:25 260 (1) 167:13 27 (1) 192:2 27238733 (1) 192:4 28 (1) 81:21 28th (1) 146:10 29 (1) 150:18 29-RC-172398 (2) 72:9,15 29-RC-172410 (2) 72:6,13 29th (1) 154:20	109:12 398 (1) 83:7	86th (5) 178:14,16,17; 180:25;185:8 8th (1) 113:3
1 (69) 73:22,25;74:4; 75:3;78:3;79:24; 101:5;103:14; 110:24;111:1,6,6; 114:1,3;115:13,18; 118:5,19;125:1; 137:23;138:3; 140:16;154:2,4; 157:21;160:17,17; 165:8;166:6,11,13, 14;167:6,7,20,24; 168:1,14,24;170:12; 171:10,14;172:9,14, 18;178:6;179:9,12, 14;180:22;181:2; 185:4;186:5,16; 188:22;189:2;190:6; 202:6;207:21;210:5; 212:23;213:11; 214:18;216:23; 218:16;220:4,18; 222:16;230:24 1:15 (2) 108:24;109:2 1:58 (1) 136:23 10 (7) 156:21,22;157:8, 17,19;158:5;165:7 10/11 (2) 151:23;153:1 10:48 (1) 72:2 10:52 (1) 74:24 10:54 (1) 74:24 10:57 (1) 77:10 11 (8) 153:7,7;154:2; 158:21,22;159:11; 160:7,8 11:02 (1) 77:10 11:51 (1) 108:24 11-1631796 (2) 138:9;192:9 11215 (1) 137:13 1199 (16) 72:12;84:9;85:8, 15;86:2,6,10;87:11, 19;88:7;89:3;91:6,9, 22;99:24;100:5 12 (5) 73:23;160:24,25; 162:9,10	2	2 (26) 75:6,8,10,17;76:1, 2,5;109:9,15,15; 117:18,19;118:3,4, 10,14,20;119:16,17, 21;120:2,4;123:12; 148:14;153:7;154:7 2:00 (1) 136:23 2:17 (1) 149:2 2:19 (1) 149:2 2:24 (1) 153:21 2:30 (1) 153:21 2:31 (1) 155:14 2:34 (1) 155:14 20 (3) 117:1,2,11 2008 (16) 111:10;112:3; 119:21,23;121:4; 125:7;133:7,8; 148:21,21;152:10,17, 19,21;165:20;177:11 2009 (1) 131:16 2010 (16) 137:3;139:22; 140:18,20,22;142:5; 151:23;153:1; 172:17,19,20;192:6, 10,19;193:23,24 2011 (13)	4	9
			4 (14) 75:20,21;99:7,9; 118:11,13;119:7; 135:7,8;136:3,5; 142:21;228:25;229:4 4/2008 (1) 152:11 4:44 (1) 234:19 435 (1) 111:16	9 (9) 153:3;154:6,9; 156:3,4,13;200:15; 228:21;229:2 90 (2) 230:15;233:5 9-8 (1) 93:12 9th (3) 111:15,16;148:16
			5	A
			5 (10) 123:13,13;138:3; 143:2,9,11;144:1; 191:19;194:5;200:15 506 (3) 137:12,16;198:16 5-A (1) 142:25 5-B (1) 142:25 5-C (1) 142:25 5-D (1) 142:25	Abigail (3) 187:6,7,8 ability (1) 95:23 able (5) 87:1;95:7;107:23; 142:16;203:7 above (1) 161:15 Abreu (8) 169:11,18;171:7,7, 8,9,9,11 absent (2) 83:11;106:20 Acceptable (2) 85:5,6 access (4) 174:18;212:20,23; 213:9 accompanying (1) 95:14 according (1) 152:18 account (1) 148:19 accurate (3) 147:17;186:7; 194:2 ACH (1) 146:11 acknowledges (1) 85:12 Act (1) 107:25 activities (2) 130:22,24 actual (3) 149:24;172:25; 199:10 actually (6) 76:12;102:16; 109:13;136:18;
			6	
			6 (8) 124:4,5;144:8,9,10, 18;145:13,15 6th (16) 123:16;124:5; 137:12,17;172:21,22; 181:21;185:22; 186:19;198:11,14,16, 18;210:7;213:15; 220:16	
			7	
			7 (4) 145:25;146:1,18; 147:15	
			8	
			8 (8) 149:4,5,20;150:1, 3;228:25;229:1,4 8:30 (1) 229:2 85 (1) 233:5	
		3		
		3 (12) 75:6,9,10,19; 118:25;123:13,14; 132:18,19;133:25; 134:1;191:6 3/24 (1) 144:17 3:22 (1) 189:7 3:45 (1) 189:7 30 (3) 117:2,13,15 307 (1) 97:11 30th (1) 198:17 315 (3) 123:6;124:11,23 31st (1) 146:9 39 (1)		

196:24;210:16 acute (16) 81:11,12,18,22; 82:12;98:20,24; 103:1,2,5,6,10,23,24, 24;105:10 add (5) 92:5,10;105:12; 154:5,6 added (1) 74:14 addition (2) 83:9;154:7 additional (2) 101:18;107:10 address (11) 97:24;113:2;126:6; 137:10;156:10; 158:19;167:10; 207:1,3,7;208:18 addressed (1) 83:15 addressing (1) 226:7 adjacent (1) 124:4 adjusts (1) 203:11 administrative (26) 72:14;73:3;82:4; 84:22;88:22;90:12; 13:98;16,18;99:10; 110:25;124:12,13; 125:10;168:12,13; 169:4,6,7,21;170:2; 171:1,3;178:21; 181:21;222:17 admission (4) 114:12;133:13; 145:10;160:3 admit (11) 119:15;137:18; 141:21,22;148:8; 149:20;153:3;157:7; 159:10;160:7,24 admitted (12) 115:17;120:2; 133:25;136:3;139:6; 12;150:2;156:3; 157:18;158:18; 160:10;162:9 admitting (2) 100:22;143:18 advanced (1) 80:24 affiliated (2) 112:16;132:5 again (14) 81:25;91:22;105:4; 116:21;120:14; 121:3;139:23,24; 140:11;164:1,19; 194:9;199:20;205:7	agenda (2) 118:3,17 ago (4) 132:16;201:11,12; 202:12 agree (6) 81:7;89:4,12; 90:16;141:21,22 agreed (2) 103:16;154:5 agreement (2) 89:21;99:24 agrees (1) 84:14 Ah (1) 140:21 ahead (12) 122:13,15;125:24; 144:6;149:4;154:7; 162:17;175:19; 191:1;204:12;205:2; 207:9 Alexandrya (4) 182:20;183:15,24, 25 allegation (1) 77:24 allergies (1) 208:19 allocated (1) 219:15 allow (11) 96:2;113:14; 120:11;140:12; 147:12;148:7,8; 153:11;197:8; 203:21;211:10 allowed (2) 106:9;160:11 all's (1) 188:20 almost (1) 145:16 alone (1) 230:2 along (1) 158:3 alternative (1) 93:21 altogether (1) 172:15 always (5) 130:1;160:10; 176:12;178:3;234:15 amazing (1) 139:17 Amended (1) 200:1 amending (1) 84:20 America (1) 82:16 amesh (1)	103:4 among (1) 98:12 amount (1) 117:9 anesthesia (2) 125:17;206:1 Anna (2) 178:14;185:24 answered (1) 224:24 anymore (1) 201:22 apologies (3) 112:2;123:1;152:3 appeal (1) 77:3 appear (3) 88:17;115:12; 199:10 appearing (1) 72:7 appears (3) 142:4;160:19; 199:9 append (3) 81:14;92:22;93:1 appended (2) 91:17;103:3 applicable (1) 119:5 application (6) 111:11,12,13,14; 112:10;136:13 applied (2) 119:11;121:13 apply (4) 119:12;120:25; 121:1;159:23 applying (1) 121:16 appointment (3) 175:15,16;176:4 appointments (5) 125:13;171:17,19; 172:4;176:2 appropriate (12) 78:5;81:13;98:21; 105:6,9,15;107:19; 141:18;142:20; 156:11;159:12;198:6 appropriately (2) 94:19;158:15 approval (1) 109:19 approve (1) 189:16 approved (2) 109:8;189:24 approximately (1) 165:6 April (5) 111:10;112:3;	148:21;152:10; 177:11 area (1) 170:12 argue (2) 87:5;103:12 argument (7) 82:7;95:2,13;96:1; 106:8;141:17,18 arguments (5) 93:12;95:6;99:11; 143:4,7 arise (1) 203:10 arises (1) 226:15 around (4) 112:2;197:9;210:7; 213:15 arrange (2) 229:20;233:14 arrangement (1) 102:13 arrangements (3) 100:19,20;101:23 Article (1) 81:21 articulating (1) 95:21 asserted (1) 87:12 assertion (1) 87:4 assigned (4) 104:1;126:6; 170:13;218:22 assignments (3) 177:24;178:2,3 assigns (1) 178:4 assist (3) 100:10;101:25; 102:12 assistance (1) 83:15 assistant (44) 80:15,17;84:21,22, 22,23,23,24;88:17, 22;89:5,13,16,17,23, 25;90:1,13,13,14,15, 16,23;91:4;94:3; 104:19;110:25; 125:11;168:12; 169:4,6,21;171:2,3; 178:25;180:12,18; 183:15;184:5,24; 185:25;186:3;187:5, 12 assistants (45) 78:21,24;79:1,16; 80:13;82:9;83:22; 85:7,9,24;86:1;87:14, 24;88:1,2,12;91:6,16;	92:6,7,8,10,12;94:6, 9,11;97:4,8,12;102:4, 9,16;168:13;169:7; 170:2;178:21; 181:21;182:4; 186:24;187:1,21; 210:18;222:17; 223:20,25 assisting (1) 82:23 Associates (2) 161:19,21 assume (3) 147:17;191:11; 214:19 assuming (1) 203:14 attached (1) 157:13 attachment (2) 84:2;180:18 attempting (1) 139:3 attend (1) 115:20 attendance (2) 118:16;132:23 attended (1) 116:10 attorney/client (1) 226:20 authenticity (1) 138:16 authorization (2) 125:14;205:23 authorizations (3) 170:19;172:12; 205:23 authorize (1) 205:22 available (3) 125:16;205:9; 230:12 Avenue (4) 166:10;167:14; 185:2,7 avoid (1) 226:4 aware (2) 81:16;164:20 awning (2) 161:10;162:21
B				
back (28) 75:24;76:1;95:1; 112:6;113:4;116:5, 20;123:17,18,18; 131:18,19;134:25; 135:1,3;149:16; 153:22;181:3;182:2; 189:21;194:10;				

204:1,6;211:22; 222:17,18;224:25; 230:14 bad (1) 226:24 badge (1) 116:2 bank (8) 146:6,22;147:22; 148:1,3,4,6,6 banking (1) 147:2 bargain (1) 92:22 bargained (1) 99:25 bargaining (7) 78:21;92:11,23; 99:21,24;106:21; 108:11 Barnes (2) 167:12,17 based (6) 87:4;94:15;106:2; 143:4,7;227:16 basis (3) 170:14;228:2; 230:24 Bear (1) 145:16 became (1) 77:3 become (6) 91:23;93:15;95:11; 164:7;193:2;220:6 becoming (1) 165:2 began (2) 112:18;114:9 begin (2) 111:9;116:19 beginning (2) 116:11;191:14 believes (1) 87:22 belong (1) 159:16 below (2) 137:23;138:3 benefits (6) 80:2;100:5;116:2; 122:2;151:10;159:5 besides (1) 199:21 best (1) 95:2 beyond (2) 138:11;161:24 big (2) 117:1;209:3 bigger (1) 209:5 biggest (1)	159:14 bill (4) 101:19,19;217:12; 234:5 Billing (3) 101:18;234:3,6 bills (3) 217:12,14,15 bind (1) 174:12 binder (1) 117:23 black (1) 115:12 block (2) 218:25;219:24 blocks (1) 218:22 blood (2) 224:5,7 Board (39) 72:7;73:22,22,25; 74:3,4;75:3,6,10,17; 19,20,21,23;76:1,2,5; 81:16,23;83:2;86:23; 96:6;97:10,11,14; 98:8,23;99:7;100:6; 103:8,20;104:14; 108:2,3,12;163:14, 24;164:3,7 Board's (6) 79:17;81:11;103:1; 104:5;105:10,25 book (6) 123:15;132:25; 219:3,7,9;230:3 booked (4) 170:16,22;230:5,6 book-in (3) 208:11,17;229:20 booking (5) 170:23;208:12; 219:20;230:20,21 both (15) 72:11;76:6,9,16, 22;77:3;89:20;94:17; 106:13;110:2; 164:17;206:3; 207:21,24;234:1 Botox (2) 218:1,1 bottom (6) 118:5;152:17,20, 21;157:23;180:19 Boulevard (1) 178:20 bound (1) 99:24 box (8) 137:15,22;139:3; 142:6,6;151:20; 192:8;216:11 boxes (1)	228:6 break (5) 163:7;188:3,4,5; 189:5 brief (1) 107:8 briefly (1) 107:11 briefs (2) 95:7,9 bring (3) 141:19;181:12; 233:12 bringing (1) 228:11 brings (3) 195:9;216:2,9 Brooklyn (40) 111:7;121:18; 122:5,8,14,18;132:5; 137:12,17;162:25; 163:2,8,22;164:21; 176:14,14;190:7,9, 14,15,18,19;200:7; 201:2,4,5,5,14,16; 204:8;209:13,18; 211:14;220:8;221:2, 3,13;223:7,14;228:18 B-r-o-o-k-l-y-n (1) 201:14 brought (2) 134:10;205:12 Buchanan (3) 134:15;136:7; 192:21 Buckley (1) 123:18 building (17) 111:1;113:3,6,7; 116:14;118:1;123:5, 18;132:14;166:16, 22;172:22;181:22; 185:22;186:19; 210:13;216:24 buildings (2) 210:6;213:15	204:13;212:2,6,15 calling (1) 221:22 calls (6) 127:19;170:18; 176:3;219:7;221:23; 232:23 came (8) 134:9,14;135:14; 176:12;177:16,20; 206:24,25 campus (1) 210:8 Can (95) 74:25;76:15;77:7, 8;79:18;80:18;81:7; 84:1;90:14,23;94:5, 19,24;95:11,11,20, 21;97:6,17;101:23; 102:10,11,11,16; 103:12;107:11; 108:1,22;110:3,5; 113:16;114:4,25; 115:1,21,21;116:4,9; 117:9,11;121:6,7; 123:12;125:3; 127:19;128:6,13; 129:23;131:4,8,9; 132:11;133:14; 134:6;136:20; 137:10,25;140:5,6; 141:7,11;143:11; 145:2;152:8;153:7; 158:10;161:9;163:5, 6;164:17;166:25,25; 168:19;169:15; 175:18;179:10; 181:13;182:1;188:3, 4,5,8;189:5;191:19; 193:9;198:2;207:6,8; 212:23;213:6; 218:23;222:7; 224:20;225:12; 230:14 card (16) 113:21;114:9,15, 21,23,24,25;115:1,5, 5,6;116:5;157:1,2,12; 158:2 cardiologist (1) 205:21 care (33) 72:17,21;81:11,12, 18,22;82:13;98:20, 24;101:6;103:1,2,5,6, 10,11,23;104:6; 105:10;106:8; 109:10,11,13;137:16; 150:13;191:23,25; 195:18;220:24; 232:12,14,19,21 Case (54) 72:6,9,16;73:3,7,	22,23;74:17,18;76:2, 11,21;77:2;78:7,16, 20;81:3,6,10,14;82:2, 3,5,14,16;83:6,7,9,20, 22;87:8,91:12;93:10, 13;94:15;95:7;97:10; 98:18,19;99:11; 106:4;107:6;109:5; 147:5;154:12; 162:18;179:22; 206:23;211:6;230:3, 3,7,7,7 cases (11) 72:11;76:16,21,22; 77:4;78:15;110:2,7; 209:5,6;230:5 categories (1) 151:11 category (3) 92:21,24;93:2 catheters (1) 187:19 Cell (1) 203:4 center (4) 91:23;103:11; 210:20;219:14 centers (2) 77:17,20 CERNER (9) 173:16,17;174:2, 13,22;175:1;212:20, 20;213:9 C-E-R-N-E-R (1) 173:18 cert (1) 98:15 certain (4) 130:24;136:17; 233:9,10 certainly (7) 78:18;86:1;93:16; 115:23;142:20; 143:5;147:7 certification (2) 86:23;98:16 certified (9) 86:12,13;98:20,24; 108:12;163:14,24; 164:4,7 challenge (1) 138:16 chance (2) 107:8;149:7 change (3) 139:22;142:2; 187:18 changed (3) 140:9;192:10,16 changes (1) 147:23 changing (1) 193:1
		C		
		calendar (1) 205:14 call (17) 73:4;110:4,9; 127:19;176:10; 202:1;204:15,15; 205:19;210:17,18; 212:4,5,17;219:3,9; 231:10 called (13) 122:12;127:16; 173:3;175:12; 176:14;187:24; 193:11,13;201:3;		

charge (2) 218:7;230:10	clearance (1) 205:21	comment (1) 125:22	consent (5) 83:11;93:23;99:25; 105:14;106:20	90:2;154:3;222:9
charged (2) 217:7,9	clearances (1) 205:20	comments (2) 82:5;99:13	consider (1) 108:13	counsel's (1) 125:22
Chart (9) 173:3,5;174:6,8, 24;175:2,4,5,7	clearly (1) 80:11	commerce (4) 75:17;76:4,24;77:1	consideration (1) 104:3	County (34) 72:6,11;79:2,4,21; 99:18;112:16;120:9; 134:5;137:16; 142:10,13;168:14; 177:1,6,8,9;180:8,18; 191:17,22,23,24,25; 193:2,8,12,14;194:8; 18;195:16,20;196:5; 199:6
charts (5) 172:24,24,25; 174:12;175:3	clerical (17) 88:24,25;89:6,7,14, 25;90:1;98:9,13; 101:24;103:13,16; 104:7,15;105:2; 107:16;131:3	commingled (1) 103:9	consistent (1) 75:20	couple (7) 94:24;120:7; 189:21,21;214:7; 223:2;224:10
check (4) 145:6;148:19; 196:4;215:7	clients (1) 95:24	common (3) 211:7,9,12	constitute (1) 77:23	courier (1) 216:2
checked (1) 158:18	clinic (30) 173:25;210:9,11, 17,20;211:2,14,15, 21,23,25;212:4; 214:12;218:10,10,14, 18,20;220:3,5,8,14, 18,21,23;221:2,9,10, 13,20	communicate (2) 129:20;227:9	contact (4) 205:24;208:4,21; 223:10	course (4) 160:9;204:14; 207:20;222:23
checking (2) 144:22;148:19	clinical (15) 84:6,6,9,11,23; 85:1;89:13,16,17; 91:4;107:24;182:4; 184:23;223:20,25	communicating (1) 132:8	contacted (2) 211:24,25	cover (10) 154:6;170:23; 179:5;187:24;205:8; 210:20;211:15; 222:20,20,22
cherry-pick (1) 97:13	closed (2) 200:21,23	communications (1) 226:1	CONTD (4) 120:5;134:2;144:2; 156:17	coverage (1) 211:18
Chief (1) 124:9	closely (1) 72:9	community (11) 72:19;78:2;80:7; 82:18,19;106:3,5,9, 16,19;107:2	contention (2) 106:23,24	covering (4) 82:21;177:19; 210:17;231:7
choose (1) 96:11	closing (2) 95:3;143:6	company (1) 175:7	contents (3) 118:25;143:5; 227:9	covers (1) 211:21
chose (1) 147:5	coat (1) 200:10	complained (2) 225:21;226:5	context (3) 104:14,25;134:8	create (3) 175:20;198:21,24
circumstances (1) 93:14	collaborative (1) 102:13	complete (3) 76:20;81:9;231:14	continue (8) 99:14;113:19; 138:2;144:6;156:15; 160:1;207:16;216:21	created (9) 72:15;73:2;94:16; 155:16,18,21;196:14, 18;197:2
cited (2) 82:15;105:5	collective (2) 99:21,24	completely (1) 134:17	contrary (1) 147:18	creating (2) 83:3;92:4
City (1) 79:6	collects (1) 171:19	complies (1) 118:21	contrast (1) 143:11	cross (2) 160:9,11
claim (3) 80:9;92:21;103:4	College (3) 165:15,18,23	comprehensive (1) 125:20	conversation (1) 104:9	cross-examination (3) 113:16;140:1; 162:23
claimed (1) 78:25	Collon (8) 130:9,12;172:11; 178:19;190:16; 205:9;208:2;209:14	computer (9) 170:8,9,13;190:3,4, 23;208:13;212:25; 213:1	cop (1) 75:5	cross-examine (1) 198:2
clarified (1) 188:19	C-o-l-l-o-n (1) 130:12	concern (1) 227:6	co-pays (3) 125:17,18;171:19	curiosity (1) 207:13
clarify (18) 84:5,25;97:1; 104:18;105:20; 116:5;122:4;128:16; 133:14;141:23; 163:6;166:21;168:4, 8;180:5;220:12; 226:12;233:7	color (2) 114:14,17	concerned (2) 159:20;194:11	copies (3) 156:7,12;199:16	curious (1) 207:7
clarifying (2) 117:12;146:21	C-o-l-t-a-n (1) 130:14	concerning (4) 76:3;83:12;105:23; 106:2	copy (6) 145:4;149:18; 156:5,6;157:23; 230:5	current (2) 116:18;125:10
clarity (1) 117:25	combination (1) 94:2	concerns (1) 72:15	Cordero (7) 111:23,24;112:14, 15;177:10,12,13	currently (1) 114:6
class (1) 132:12	combined (1) 104:15	concluded (1) 234:19	C-o-r-d-e-r-o (1) 112:1	customer (1) 132:12
classification (5) 78:11;88:19;108:8, 9,10	coming (11) 101:2,5;110:21; 116:23;127:13; 129:3;159:20; 182:13;201:18; 211:22;217:19	conclusion (2) 142:1;192:12	Cordero's (1) 112:4	cystectomies (1) 209:8
classifications (7) 78:5,9;82:20;84:1, 3;108:8;168:9		confer (1) 90:2	corner (7) 118:6;144:15; 146:7;150:16,21,22; 152:21	
clean (1) 127:13		confirm (1) 125:16	corporation (4) 79:22;82:16; 100:19;105:4	
clear (10) 92:5,14;96:17; 111:5;205:17;222:2, 6,9;229:14;232:11		confusion (1) 175:21	corporations (1) 83:14	
		connected (3) 72:9;100:23; 157:12	Counsel (3)	
		connection (2) 206:14;207:5		

D	127:4,6;216:2,18 delivery (2) 127:8;217:24 demographics (2) 174:10;176:3 dental (3) 159:2,2,17 department (21) 72:16,17,23;78:2; 81:3;82:11;121:17; 22;127:12,20,22; 128:21;149:15; 168:2;208:7,12; 215:23;229:15; 230:19,20,21 departments (3) 80:6;100:8;122:1 depicted (1) 160:13 deposit (10) 146:11,13,16,21, 23;147:4;148:10,18; 194:22,23 deposits (2) 125:18;148:23 deprived (1) 104:16 deprives (1) 95:23 describe (2) 119:1;175:16 described (7) 99:19;108:6;119:8, 12;125:2;130:22; 151:18 designated (1) 179:5 designations (1) 143:11 desire (2) 78:14;79:18 desk (12) 170:10;171:16; 182:12;183:18; 190:4,5,22,23,24; 202:1;222:16,19 detail (1) 78:19 determination (1) 81:12 determine (1) 208:24 determined (3) 77:23;81:18;100:6 determines (1) 208:22 develop (1) 113:18 diagnose (2) 80:19;90:23 diagnoses (1) 102:11 dietician (1)	91:13 dieticians (1) 91:11 difference (2) 138:24;209:1 differences (4) 78:20;173:13; 209:3,4 different (35) 73:15;74:17,18; 75:14;76:20;77:16, 18,20;78:8,16;91:21; 101:25;103:10; 113:4;122:11; 123:15,20;139:4,10; 141:14,23;142:9,23; 143:14;151:10,15; 168:9;173:10;174:6; 176:16;182:24; 183:1;192:6;209:8; 222:4 differently (1) 225:2 Diker (8) 178:17;179:14,21; 185:3,8;186:3,8,11 Dinnerstein (16) 131:7;133:23; 177:23,24;183:14; 189:14,22;195:13; 204:3,16;213:14,25; 214:17;224:19,21; 227:25 D-i-n-n-e-r-s-t-e-i-n (1) 131:10 Dinnerstein's (1) 189:13 dire (13) 119:18,19;133:18; 137:19,20;138:12; 139:13;140:2;153:4, 5;155:3;161:1,25 DIRECT (17) 110:19;120:5; 134:2;144:2;146:11, 13,16,21,22;147:4; 148:17,23;156:17; 194:22,23;232:12,21 directed (3) 98:5;108:2,5 directing (1) 129:3 direction (3) 158:11;228:2,15 directions (5) 202:2,6,9;214:11, 14 directly (3) 149:16;232:14,19 Director (1) 109:9 Director's (1) 109:18	dirty (2) 127:9,11 disagrees (1) 81:6 discharges (1) 171:16 disciplinary (1) 226:14 disciplined (2) 204:8;225:1 discuss (2) 202:25;226:13 discussed (2) 98:2;185:22 disenfranchised (1) 104:23 dismissed (2) 92:25;105:17 dispositive (1) 147:14 dispute (4) 85:14;202:13,15; 206:19 disputes (2) 203:10,15 distinct (1) 100:13 distinction (3) 82:10;121:10,25 distinguish (1) 120:24 divided (1) 98:12 division (1) 107:13 Doctor (24) 101:9;102:15; 130:23;163:12; 164:11,14;187:18; 205:10,21;208:23,24; 209:16,22;210:17; 212:18;213:5; 218:25;228:2,10,15; 230:6,7;231:12,20 doctor/patient (1) 226:21 Doctorcom (4) 175:10,12;176:1,2 doctors (41) 100:14,16,17,17, 18,24;101:2;102:6; 110:25;128:1;131:1; 163:10,19,21;170:24; 174:11;176:25; 181:9;186:2,6; 187:17;189:1;201:6; 205:5,7;208:2; 209:11,12,18;210:20; 211:1,13,23,24; 218:22;227:25; 228:19,19;230:14; 231:12;233:10 doctors' (1)	190:17 doctor's (5) 81:13;174:10; 181:16;208:20; 219:15 document (87) 113:23,24;115:12; 117:17;118:5,14,20; 119:15;123:14; 132:17;134:18; 136:15;138:13,15; 139:2,5,6,9,11,16,20; 140:3,6,6,7,9,13; 142:12,15,17,18; 143:5,12,24;144:1,4; 145:20,25;146:3; 147:23;148:7,8,25; 150:5,6,14,19,23; 151:2,6,17,25;152:2; 154:4,5;155:4,15; 156:7,19,23;157:7; 158:21,24;159:8,10; 161:8;192:13; 196:14,17,19;197:2, 7,18,18,22,24;198:1, 4,4,7,22,24,25;199:1, 3,23;215:17 documentation (1) 152:16 documents (19) 113:18;136:25; 139:4;141:21;142:4, 5,9,11,23;143:7,12; 156:9,10;158:18; 159:19,21,23;200:3; 207:4 document's (2) 152:1;198:7 don't (2) 113:11;178:25 done (13) 81:23;162:13; 174:25;205:17; 208:13;209:5,9; 213:3,5,6;224:12,13; 225:14 door (10) 128:14,22;129:6; 161:5,8,15;190:10, 11,20;229:10 down (4) 126:23;128:8,14; 163:7 dozen (1) 105:13 Dr (39) 123:6;124:8;130:9, 9,19;163:13;164:25; 165:3,8,18;166:5; 170:20,22,23,25; 172:11,11;173:9; 176:11;178:15,19; 179:2,2;186:4;
----------	--	--	--	---

190:15,16;204:16; 205:8,8;208:2; 209:14,14,14,15; 211:21;212:6; 224:19,22;229:6 draft (1) 230:12 draw (3) 142:1;197:21; 224:7 drawn (1) 121:10 drop (2) 128:15,25 drug (2) 112:19,21 due (2) 82:6;147:13 duly (2) 80:18;107:4 During (7) 112:15;121:24; 140:2;146:13;231:1, 12;233:2 duties (4) 82:22,25;125:10; 171:15	123:17;124:1 else (13) 78:23;102:12; 105:13;108:15; 128:5,6;168:1; 180:25;185:11; 217:3;220:24; 225:14;234:6 eluded (1) 180:3 e-mail (6) 126:4,6;149:22; 207:1,2,7 e-mails (1) 170:16 Emma (1) 229:20 employed (6) 79:4,24;97:8;98:1; 100:20;151:15 employee (23) 90:3,17;91:14,23; 97:9;98:7,10;104:16; 112:22;113:1;116:2, 2;118:22;119:23; 120:13;121:10; 133:6;165:2;197:14; 199:11;202:13; 227:10;229:3 employees (111) 72:15,17;78:2,4,6, 9,12,22;79:14,24; 80:3,8,8;81:14,20,22; 82:17,19,22;83:1,10, 13,23;86:5,7,11,17; 87:19,23;88:18;91:8, 23,24;94:5,7,20;96:7, 8,18;97:25;98:4,10, 23;99:16,19,20; 100:2,6,9,9,10;102:5; 103:1,2,14,16,19; 105:13,17,18;106:4, 5,8,14,24;107:16,17, 18,20,23;108:3,5,7,9, 10;109:17;116:15,16, 17,18,20,23,25; 121:1,11;122:1; 158:11;168:3,5,6; 177:24;179:12; 180:6,19;183:10; 185:21;186:14,18; 200:7,16;213:8; 218:16;221:19; 226:14,18,24;227:8, 22;228:21,25;233:4 employee's (1) 158:19 employer (44) 72:18;77:24;78:12; 83:11;84:11;93:11, 18,20,21;94:3,16; 97:5;98:3,3,4,22; 99:15,17,18,25;	105:22;106:18,20,23; 108:4,4;138:14; 139:22;142:2,5,10; 159:13;180:3,5; 191:22;192:2,10,12; 193:1,5;194:7;199:6, 12;226:13 employer/joint (1) 105:21 employers (7) 77:25;93:22,23; 106:21;140:9; 141:14;193:19 employer's (8) 73:6;90:14;109:25; 137:10,23;138:5; 139:4;154:2 employment (15) 111:11;116:11,19; 119:5,13;136:13; 146:14;149:12; 150:9;151:12,14; 192:18;198:25; 199:3,4 employs (1) 129:24 EMR (1) 173:6 end (5) 96:3;108:19;125:6; 201:17;224:20 ending (1) 109:12 enough (1) 141:11 enter (1) 176:3 entering (1) 144:1 entirely (1) 78:15 entities (3) 72:10;103:5; 105:22 entitled (3) 83:17;93:8;106:6 entity (2) 81:21;122:11 entrance (4) 128:19,20;160:17, 19 entry (2) 146:10;147:17 envelope (1) 195:8 envelopes (1) 127:9 EOV (1) 159:2 equipment (10) 125:15;223:16; 232:25;233:8,8,11, 12,15;234:4,8	Erica (7) 134:16;136:7; 148:14;177:10,20; 185:15,16 Erin (1) 72:7 erroneous (1) 80:11 erroneously (1) 99:17 establish (1) 138:12 established (1) 176:13 estimate (1) 117:9 E-u-r-o (1) 173:7 evaluation (1) 131:13 evaluations (1) 131:20 even (5) 79:5;92:15;104:5; 139:17;184:22 evenings (1) 200:23 events (2) 113:9;118:16 everybody (2) 84:1;168:18 everybody's (1) 90:12 Everyday (1) 209:25 everyone (5) 90:15;103:25; 141:7;180:25;196:3 everyone's (1) 91:1 evidence (15) 120:3;136:4,17; 139:6;141:22; 142:18;143:2; 145:14;148:7,8; 150:2;152:1;156:3; 157:18;158:19 exact (1) 125:8 exactly (5) 102:7;177:15,20; 202:4;222:2 EXAMINATION (12) 110:19;119:19; 120:5;133:18;134:2; 137:20;144:2;153:5; 156:17;161:1;205:3; 229:11 examining (1) 102:3 except (1) 220:7 exception (2)	88:17;104:1 exclude (1) 103:19 excluded (3) 85:4;107:19,21 exclusions (1) 107:24 exclusively (1) 186:15 excuse (5) 80:7;111:6;129:17; 142:8;166:14 Exhibit (63) 73:22,22,25;74:4,4, 6,7,9,14,15;75:3,6,10, 21;76:1,2,5;99:7; 109:19;114:3,12; 115:14,18;117:19; 118:4,12,13,20; 119:15,21;120:4; 123:12,13,14;132:19; 134:1;135:8;136:5; 138:3;143:9,11,21; 144:10;145:15; 146:1;147:15;149:5; 150:3;154:9;156:4, 22;157:19;158:5,22; 160:8,25;162:10; 191:19;194:5; 195:14;197:4;199:5, 17 existed (1) 78:16 existing (1) 80:10 exists (2) 83:8;144:1 explain (8) 97:23;101:10; 132:11;154:1; 197:12;205:16; 224:17;225:24 explained (2) 74:22;96:23 explaining (1) 96:17 explanation (1) 159:4 explicit (1) 103:1 extent (10) 77:22;83:11,16; 84:10;99:11,12; 104:13;119:11,11; 143:6
E				
Earlier (1) 212:12 Early (2) 191:12,12 East (1) 72:12 easy (2) 103:15;104:4 Edward (1) 205:8 EFT (1) 146:11 EIN (1) 192:16 either (13) 88:9;108:4;116:10, 18;178:23;184:21; 208:2;210:17; 211:23;221:21; 225:2;227:24;229:19 election (19) 83:18,24;92:16; 93:9,13,17;94:11; 96:19;99:1;103:17; 104:2;105:1,25; 106:1,6,10;108:2,5,6 electrical (1) 173:6 electronic (1) 174:9 elevator (1) 123:23 elevators (2)				
F				
				face (4) 78:24;80:11;81:23; 92:25 facility (25) 110:24;111:2,4,6,

9;112:18;114:10; 116:18,19;120:25; 121:4;122:22;123:7; 128:1,16;129:10; 132:6;136:11; 151:16;172:6; 207:21;209:19; 210:3,5;214:18 fact (16) 92:19;93:23;165:2; 172:13,20;181:20; 186:14;195:19; 198:10,17;218:13,16; 221:7,9;232:11,18 factors (1) 211:8 facts (1) 110:5 fair (1) 117:2 fairly (1) 125:20 far (1) 164:20 fax (12) 208:11;215:7,16, 18;219:10,12,14,19; 228:6;230:2,3,14 faxed (3) 208:15,16;230:13 faxes (1) 219:11 February/March (1) 191:11 FED (4) 137:23;139:3,4,10 Federal (1) 138:5 FedEx (1) 216:18 fee (1) 208:4 feel (1) 107:8 fees (2) 205:24,25 Felicia (4) 229:19,24,25; 230:10 Feliciano (1) 182:5 Felicia's (1) 230:17 FELSTINER (136) 110:9,20;112:9; 113:11,20;114:2,12; 115:19,23;116:1,8; 117:7,8,14;118:8,10, 13,15;119:15;120:6, 19,23;121:6;122:16, 17,25;123:2;124:7; 125:4,9;126:3; 127:24;129:8;130:7,	20;131:5,12;133:10, 13;134:3;135:9; 136:6,24;137:18; 138:11,16,21;139:24; 140:1,11;143:17; 144:3,9,18,20,24; 145:10,16,19;146:2, 18;147:6,20;148:9, 22;149:6,20;150:4, 12;152:3,9;153:3; 155:2;156:16,18; 157:7,14,20;158:23; 159:10;160:2,3,12, 24;161:6,23;162:3, 12;163:3;166:21; 177:2,4;192:11; 193:9;196:20,24; 197:6;203:8,14,17; 205:2,4;206:16,19, 25;207:9,10,14,16, 20;210:24;211:7,12, 17;212:11;213:11,13, 19;214:4;216:6,7,22; 217:3;219:4,6; 221:16,22,25;222:9; 226:9;227:14,16,19, 21;229:9,12 field (1) 164:10 fifth (1) 180:19 figure (3) 142:16;167:4; 225:5 file (2) 100:3;193:21 filed (7) 75:7;109:7,16; 154:12;155:17,20,24 fill (11) 111:14;134:22; 135:2,4,24;136:13; 141:3;146:13; 192:23;199:11; 208:11 filled (11) 111:12;112:10; 134:19;141:2,20; 148:10,13;193:17,20; 199:5;225:7 filling (3) 225:2;228:3,5 finalize (1) 230:4 finalizes (1) 229:25 finalizing (1) 230:10 finally (1) 137:8 find (7) 86:21;87:1;93:19; 98:22;108:3;138:19;	171:22 finding (1) 94:9 fine (7) 76:24;110:3; 115:25;117:13; 145:5;197:21;222:10 finish (2) 97:17;188:8 finished (1) 123:7 fire (1) 131:22 fired (1) 225:17 first (20) 78:17;110:15,17; 123:3,5;134:4; 135:18;137:2,11,22; 140:10,16;158:18; 184:21;192:8;193:7, 11,15;230:7;234:15 fit (1) 226:17 five (5) 139:16;169:1; 170:1;172:13;186:9 fix (1) 175:5 flesh (1) 95:6 flood (2) 167:7;172:17 floor (8) 111:17,18;113:4,4, 5;123:17;124:1; 167:22 Flora-Shah (1) 144:4 Flores (1) 110:18 Flores- (1) 110:9 FLORES-SHAH (12) 110:13,21;115:20; 134:4;144:11;147:8; 148:10;150:5; 156:23;157:21; 158:24;160:13 F-l-o-r-e-s-S-h-a-h (1) 110:18 folder (4) 134:10;135:13,15; 194:1 follow (1) 102:15 follow-up (2) 101:6;216:6 forget (1) 164:13 form (16) 117:4;141:2; 146:13;203:8;	204:17,25;205:1,20; 215:4,6,7,9,13,14; 226:8;228:5 formal (4) 72:4;73:24;74:25; 75:2 formally (1) 100:23 formation (2) 113:10,11 former (1) 101:2 Formos (1) 214:10 forms (4) 134:12;148:11; 193:22;199:10 forth (4) 95:1;99:3,11; 169:14 foundation (3) 121:3;138:12; 213:16 four (5) 142:8,22;163:21, 24;164:2 fourth (1) 137:8 frame (1) 94:20 FRANK (302) 72:22,25;73:5,10, 13,15,19;74:3,9,11, 17,21;75:4,11,14,16, 19;76:10,13,17,19, 24;77:2,7,12,18; 78:14;79:10,13,16, 21;80:17,22,24;81:5, 9;82:3,6,15;84:14,17, 20;85:23;86:1,8,12, 18,23,25;87:7,14; 88:5,7,10,15,24;89:2, 7,10,15;90:1,3,8,19, 22;91:4,16;92:5,10, 15,19;93:5;94:24; 95:7,16,18,20;96:5, 11,14,21,24;97:2,17, 19,22,25;98:7,25; 99:3,6,15;100:15,18, 25;101:4,7,9,13,22; 102:7,9,18,25;103:8; 104:3,9,12,20,22,25; 105:4,20;106:18; 107:2;109:11,18,22; 110:5;113:8,16; 114:14,17,21,23,25; 115:10,14;117:4,6, 10;119:18,20;120:1, 10,12,16;121:3; 122:11,14;125:22,25; 129:16;130:16,18; 131:4,8;133:1,19,24; 134:24;136:2,20;	137:19,21;138:19; 139:11,15,21;140:3; 141:5,14;142:3,22, 25;143:10,15,20,23; 144:8;145:3,6,8,12; 146:19;147:1,9,16; 148:3,20;149:21; 150:20,22;151:25; 153:4,6,12;154:10, 15;155:4,7,9,15,20, 23;156:1,5,13; 157:10,12,16;158:7, 10,13,15;159:14; 160:5,9;161:2,8,11, 16,20;162:8,20; 164:5;165:17; 166:24;167:16; 169:13;171:6; 175:20,23,25;177:5; 179:6,22,24;180:7,9, 16;181:19;183:4; 184:2,18;185:14; 188:4,8,10,20,23; 189:5,8;191:2; 192:14;193:6; 194:16;195:4,11; 196:3,11,14;197:3, 14,23;198:2,9; 199:13,15,25;200:2; 201:13;203:13,22,23; 204:23;206:22; 207:12;210:21; 211:3,5,9;213:16; 216:25;217:6;219:5; 220:2;221:6;222:4, 12;223:4;224:9,20; 225:22,25;226:8,10, 19,23;227:1,4,6,11; 232:10;233:6,17,19, 25;234:2,11,14,17 Franks (12) 72:20;74:19; 138:23,25;148:5; 154:8;157:9;162:17, 22,24;196:7;217:4 frequently (3) 181:14;222:25; 228:1 Friday (6) 160:23;185:10; 200:12,13,16;209:25 Fridays (2) 178:20;186:4 front (16) 115:6;170:10; 171:16;178:22; 182:12;183:18; 190:4,5,9,22,23,24; 222:16,19,20,22 full (1) 222:16 functions (1) 82:21
--	--	---	--	---

further (6) 204:23;224:9; 229:11;232:9;233:6; 234:11	97:3,9;98:25; 134:12;176:20,22	81:11;112:22; 113:1;157:2;158:2	23,25;140:5,12,16, 19,21;141:1,6,9,13, 16;142:14,19,24; 143:1,18,22,25; 144:5,19,22;145:1,5, 7,9,11,13,17,21,24; 146:20,25;147:10,21, 25;148:5;149:1,3,22; 150:1,10,13,21; 152:1,8,11,23;153:2, 11,13,16,19,22,25; 154:13,18,22;155:5, 8,11,18,21,24,25; 156:2,6,15,20;157:9, 17;158:9,10,12,14, 17;159:3,12,22,24; 160:1,6,10;161:10, 12,14,17,24;162:2,9, 14,17,21;163:5,17; 164:1,15,19;165:13; 166:9,19,23;167:2,4, 10,15;168:4,8,16,20; 169:15;171:1,5; 173:7;175:18,22,24; 176:18;177:3; 178:16,18,24;179:1, 10,20,23,25;180:2,8, 11,14,17,21,24; 181:4,7,11,14,18; 182:1,24;183:3,9,23, 25;184:13,15,17; 185:5,9,13;188:5,7,9, 19;189:6;190:20,22; 191:1,4;192:13,16; 193:3,15;194:9,15, 19,24;195:2,5,7,10; 196:1,6,13,16,23; 197:1,7,12,17,25; 198:3,8,13,19,21; 199:8,14;201:8,11, 21;203:9,16,20; 204:12,21,24;206:9, 12,17,21,24;207:2, 15,18;209:12;210:22, 25;211:4,10,13,16, 20;212:9,14;213:10, 18,21,24;214:2,6,25; 215:3,6,9,13,16,20, 22,25;216:4,10,14, 17,21;217:4,21; 219:11,23;220:1,12; 221:1,5,8,11,15,18, 24;222:1,6,10,25; 223:3;224:10,16,23; 225:7,10,13,16,20, 23;226:3,12,22,25; 227:2,5,7,15,17,20, 22;228:1,8,14,17,20, 24;229:3,7,10;232:2, 5,7;233:7,14,22; 234:12,15,18	185:3;186:3,8,11 held (5) 81:12,23;106:1,1; 116:13 help (7) 169:13;171:4; 172:4,6,6;178:23; 221:15 helps (1) 188:25 herein (1) 119:12 here's (1) 141:16 herself (1) 112:15 hesitate (1) 102:13 hi (2) 177:19,21 high (1) 90:24 higher (2) 102:10,14 hinge (1) 91:9 HIPAA (1) 159:25 hired (4) 111:10;121:18; 123:3;171:4 history (1) 151:14 hit (1) 151:12 hold (1) 188:14 Holder (3) 182:20;183:15,25 honestly (5) 168:19;184:6; 202:17,17,23 Hospital (183) 72:5;73:16;75:19; 78:23;79:7,25;80:2,8, 14;81:12,15,18,21, 22;82:13,16,19,22, 25;83:3,5,5,13;86:2, 6,17;88:13;91:7; 92:6,11;93:16;94:16, 17,19,21;96:8;97:8; 98:1,7;99:6,15,18,20, 21;100:3,4,4,5,7,9,12, 21;101:16,17,18,19; 102:1,20,21;103:2,3, 4,5,6,23;105:1,4,7,10, 11,13,18;106:13; 107:20;110:1; 112:22;113:1,12,13; 116:14;118:22; 119:24;120:13,13; 125:13;126:24,25; 127:1,3,12,14,23;
future (5) 76:21;102:21; 158:18,19;159:23	Grunberger (22) 124:8;130:9,10; 163:13;164:25; 165:3,8,18;166:5; 170:21,22;173:9; 176:11;179:2,2; 204:16;205:8;208:2; 209:14;224:19,22; 229:6	Healthcare (3) 72:12;81:24; 222:13 hear (11) 81:5;134:8,24,25; 141:5,7,11;162:6; 193:7,11;224:20 heard (6) 134:4;177:6,7; 193:13,16;224:21		
G	Grunberger's (4) 123:6;190:15,17; 212:6 guess (7) 101:10;142:3; 156:5;192:22;209:6; 220:22,24 guidance (1) 80:20	HEARING (552) 72:3,3,4,6,9,24; 73:1,8,12,14,18,21; 74:2,2,6,10,12,19,22, 25;75:6,12,15,22,25; 76:8,12,14,18,23; 77:1,5,9,11,13,14,19; 78:1;79:8,11,15,20; 80:15,21,23;81:1,7, 25;82:4,7;83:25; 84:8,10,15,19,25; 85:3,6,11,19,25;86:3, 9,21,24;87:3,10,16, 20,25;88:6,8,11,14, 16,25;89:3,5,8,11,13, 16,18,20,23;90:5,7, 10,20,25;91:5,15,19; 92:2,9,13,18;93:4,6; 94:13,22,25;95:8,11, 17,22,25;96:9,12,15, 23,25;97:15,18,21, 23;98:2,5,14;99:2,5, 9;100:14,16,22; 101:1,5,8,11,21; 102:5,8,17,24;103:7, 22;104:8,11,18,21, 24;105:3,19;106:17, 22;107:3;108:1,14, 17,20,21;109:3,12, 20,23,25;110:3,7,11, 14;111:24;112:1,4,8; 113:6,8,14,17,25; 114:13,20,22,24; 115:1,4,8,9,11,17,21, 25;116:4,7,21;117:5, 11,18;118:4,9,11; 119:17;120:2,11,14, 17,20;121:5,7,15,20, 24;122:4,7,10,13,15, 24;123:20,24;124:3, 17,19;125:3,5,7,24; 126:2,10,12;127:15, 18,21;128:19,23; 129:2,7;130:1,6,10, 12,14;131:9,11; 132:18;133:3,5,8,14, 17,25;134:19,23; 135:1,6,16,21,23; 136:1,3,16,21; 137:24;138:2,13,18, 22,25,25;139:14,19,		
gauze (1) 215:5	Grunberger's (4) 123:6;190:15,17; 212:6			
gave (5) 133:20,21;135:17; 148:11,19	guess (7) 101:10;142:3; 156:5;192:22;209:6; 220:22,24	H		
general (3) 82:11;125:21; 164:16	guidance (1) 80:20	half (5) 105:12;124:24; 157:23;202:12,14		
generally (1) 220:3		hall (1) 128:9		
gentleman (1) 132:4		hallway (1) 128:14		
gets (1) 172:12		Han (3) 188:11,12,14		
Gina (5) 111:23,24;112:14; 177:12,13		hand (3) 110:12;153:9; 216:24		
girl (1) 179:13		handed (3) 135:3,13;194:1		
given (7) 117:23;119:23; 134:21;183:11; 191:16;192:15,18		handle (1) 158:15		
gives (4) 171:18;178:2; 195:12;231:23		handling (1) 147:7		
giving (1) 171:17		hands (1) 195:8		
gladly (1) 153:10		handwritten (2) 152:4,7		
glass (2) 123:16,25		Hang (9) 115:21;139:1; 147:21;153:25; 155:5,5,12;180:4; 197:17		
goes (19) 87:10;98:14,19; 102:1;131:7;136:16; 161:24;174:19; 178:12;179:3,7,21; 180:25;185:2;186:3, 7;199:18;203:10; 211:7		happen (6) 92:15;113:2;128:2; 181:15,16;209:24		
Gonzalez (1) 182:11		happened (4) 225:4;227:17,19, 20		
grant (1) 103:24		happens (1) 128:7		
Greenpoint (7) 166:10;179:3,14, 21;181:1;185:2,7		hard (1) 87:5		
grid (1) 152:23		head (1) 72:20		
grounds (3) 147:1;155:16; 210:21		health (5)	Heights (6) 178:17;179:21;	
group (6)				

129:25;132:7; 137:12,16;142:7,11; 146:11;148:12; 149:13,15;164:23; 165:3,16,18,25; 166:17,20,22;167:9; 172:21,21;173:10,16, 20,21;174:2,6,12,15, 16,18,19,20,21; 176:6;181:22;183:7; 185:22;186:18,19; 188:1;192:7;197:15, 16;198:11,14,16,18; 199:2;200:25; 205:15,19,25,25; 206:2,5,7,8;207:19, 22;208:4,10,25; 209:2,5,10,17,20; 210:4,8,12;213:4,15; 214:23;215:1,18; 217:19,23;218:4,6,7, 10;220:14,21,23; 222:4;230:22; 232:24;233:3,11,21 Hospitals (6) 72:10;99:23; 101:19;103:10; 107:13;206:10 hospital's (8) 87:18;93:16; 102:25;105:6,14,14, 16;173:14 hour (1) 224:11 hourly (2) 232:3,4 hours (4) 200:11;214:9; 228:17;229:4 housekeeping (1) 109:4 human (14) 80:5;100:7;111:15, 19;112:7;134:9,13; 148:14,15;149:15; 151:4,9;202:21; 225:11 hundred (1) 113:13 hypothetical (2) 120:12;227:16	138:6 identified (20) 73:25;75:10,21; 78:17;105:17;114:3; 117:19;132:19; 135:8;142:6,6;143:9; 144:10;146:1;149:5; 154:9;156:22; 158:22;160:25; 163:21 identifies (1) 99:17 identify (2) 112:15;114:4 illustrates (1) 83:7 image (1) 113:24 important (2) 82:9;143:3 importantly (1) 80:6 improper (1) 226:11 inappropriate (4) 83:2;92:20;105:9; 125:23 incentives (3) 119:7,7,11 include (11) 74:7;78:21;83:10; 85:1,3;92:7,7,12; 93:24;94:18;107:5 included (8) 83:16,18,23;84:14; 86:2;107:23;143:5; 154:4 including (1) 78:1 incorrect (2) 97:6;197:18 incorrectly (3) 96:13;225:8,9 increase (4) 191:3,6,8,16 incumbent (1) 83:2 independent (1) 102:15 index (1) 74:6 indicate (2) 141:15;142:9 indicated (1) 80:12 indiscernible (6) 148:14;167:13; 206:20;209:8;215:5; 219:4 individual (3) 143:23;147:2; 197:20 individuals (2)	168:10;169:10 inference (1) 197:21 informally (1) 224:25 information (12) 113:19;147:2; 148:17;155:23; 158:20;159:16; 174:11;201:6,18; 205:16;208:5,17 Infrequent (1) 221:17 in-house (3) 126:20,21,22 initial (3) 78:9;180:5,18 injections (3) 187:20;223:23,24 inquire (2) 147:16;197:16 inquiring (1) 225:25 inquiry (1) 199:13 inside (2) 102:1;166:16 insofar (1) 109:6 instead (2) 91:1;179:10 institution (1) 165:21 instructed (1) 209:19 instructing (1) 228:8 instructions (1) 148:4 insurance (8) 157:1,2;158:2; 159:2;174:10; 205:22,23;208:18 insurances (1) 125:14 intended (2) 147:19;155:9 inter (1) 126:24 interact (1) 210:2 interaction (1) 230:23 interchange (3) 80:7;82:20;100:8 interest (10) 72:19;78:2;80:7; 82:18;106:3,5,9,19; 107:2;211:12 interesting (2) 103:15;139:11 internal (1) 190:13	interoffice (2) 127:2,9 interview (3) 112:13,15;187:18 into (38) 73:13,17;80:23; 93:24;96:18;98:23; 99:1;102:3;106:21; 108:11;116:23; 120:2;128:14;136:3, 17;139:6;141:22; 142:18;143:2; 145:14;147:12,17; 148:7,8;150:2; 151:12;156:3; 157:18;158:18; 170:5;171:21; 174:19;175:3; 181:12;197:16; 205:13;231:20; 232:20 invasive (2) 209:6,9 involve (3) 76:21;77:3;205:10 involved (6) 179:16,22;180:3; 223:16;232:12,20 involvement (1) 226:19 involves (1) 72:16 involving (1) 72:10 Island (3) 165:15,18,23 issue (15) 72:19,19;78:1,10; 82:13;84:4;90:11; 94:9;105:5,21; 106:18,20;187:15; 226:7,21 issued (3) 113:21;114:9; 141:14 issues (15) 73:20;77:14,22; 78:1,10;81:2,8; 83:20;147:5;202:25; 203:5,7,12;226:13,20 items (1) 136:17 Ivan (6) 130:9,9;163:13; 204:16;224:19,22 Iwona (4) 180:15;181:7; 184:19,23	January (2) 146:9,10 Jersey (1) 224:15 Joann (1) 202:18 job (18) 82:20,21;84:1,3,21, 24;85:4;88:19; 121:13,16;125:10; 168:9,11;169:20; 171:15;202:25; 227:23;230:17 jobs (1) 170:2 John's (2) 83:5;97:10 join (2) 105:1;108:7 joining (2) 108:9,10 joint (9) 72:18;77:23,25; 93:22;98:3,4;99:25; 106:18,20 jointly (1) 99:25 judgment (1) 102:15
K				
				Karla (4) 169:24;170:24; 171:1;172:8 Karla's (1) 205:9 Kaufman (2) 178:14;185:24 keep (3) 77:19;95:5;99:13 keeps (1) 174:2 Kennedy (1) 202:18 kept (4) 174:5,13,14;176:4 Ketner (2) 187:7,8 kind (10) 107:9;113:18; 127:8;132:11; 173:25;200:9;226:4, 19,21;230:23 kinds (1) 82:9 King (2) 79:2;191:24 Kings (27) 72:5,11;74:8;79:4; 137:16;142:10,13; 168:13;177:1,6,8,9; 180:8;191:16,22,23,
I			J	
I-9 (4) 135:4,4,24;192:22 ID (10) 114:5,6,8,14,21; 122:9,14;139:3,4,10 identifiable (1) 158:20 identification (3) 113:21;114:8;			Janet (1) 182:11	

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76:20;79:4;83:18; 23;86:13;92:20; 100:19,20,20,25; 102:20,21;103:2; 115:8;125:6;147:4,9; 9,10,18;153:16; 164:6;188:6;197:5; 198:17;211:22 maybe (6) 86:4;142:3;148:3; 177:16;191:11; 202:12 McCullough (1) 185:15 MD (2) 164:13,17 mean (31) 91:11;93:19;96:22; 107:12;114:20; 122:24;141:15; 146:22;155:19,22; 158:13;159:3; 161:10;163:6; 166:21;168:3,4,8,19; 173:2;176:9;192:22; 200:8;204:10;206:5; 17:212:10;225:6,11; 226:10;232:13 means (2) 91:21;92:3 medical (27) 72:23;77:16,17,20; 84:23;100:11,12; 159:16;161:18,21; 165:19;173:6,11,14, 14,20;174:2,6,15; 178:25;185:25; 186:3;205:21;210:6; 214:19,19;217:17 medications (3) 125:15;187:16; 218:5 medicine (5) 101:13;164:16,18, 22;170:19 medicines (2) 102:11,18 meet (1) 111:22 Melinda (3) 182:5,18;231:8 Melissa (3) 188:11,12,14 member (6) 99:22,23;158:7; 225:21;226:6,6 memorandum (2) 95:10,14 mention (2) 120:8,21 mentioned (5) 122:5;182:22; 183:2;206:2,12	mentions (1) 177:9 merge (1) 81:19 message (1) 203:25 met (3) 111:23;184:16; 202:19 Methodist (115) 72:5,10;73:16; 75:8;77:24,25;78:4, 23;79:1,6;80:1; 84:13;85:9,15,20; 86:2,10,17;88:3,13; 91:8,24;93:16,17,20, 22,24;94:16;96:8; 97:8;98:1,7,17,19,21, 22;99:17;100:24; 101:3;105:6,11; 106:23,24;108:4,11; 110:1;111:19; 112:22;113:1,12,13; 116:14;117:24; 118:22;119:24; 124:9;127:1,12,14, 23;129:25;132:7,14; 137:12,16;142:7,11; 146:11;148:12; 149:13,15;151:4,7,8; 161:18,21;164:23; 165:3,25;166:17,20, 22;167:8;172:21; 174:25;176:6,12,24; 186:19;191:23,25; 192:7;195:18; 198:11,14,16,18; 199:2;202:23; 205:19;206:8,14; 210:3,8,12;212:13; 213:14;218:4; 230:22;232:24; 233:1,11,15,19,21 microphone (1) 141:10 middle (1) 116:9 might (11) 76:21;77:3;87:12; 141:18;156:13; 208:19;226:6,13,13; 227:9;232:25 Milecia (1) 182:18 Milner (2) 123:8;212:13 mind (2) 95:5;99:13 Minor (7) 123:20,22,24; 124:5;209:7;212:13, 14 minute (3)	74:3;113:23; 196:16 mischaracterizing (1) 219:6 missing (1) 199:9 misstated (1) 72:22 mistakes (1) 225:12 misunderstand (1) 86:4 misunderstood (1) 151:1 mix (1) 104:6 mixed (1) 80:10 moment (1) 145:16 Monday (8) 160:23,23;185:10; 200:11,13,16;209:25; 231:7 Mondays (1) 171:22 month (3) 124:24,24;223:1 months (2) 132:2;223:2 more (12) 80:24;92:3;96:18; 97:20;98:5,21;121:8; 139:7;167:1;209:5,6; 229:8 morning (3) 170:5;203:25; 228:22 most (19) 80:6;88:16;99:13; 126:21;130:3;141:4, 6;151:20;152:18,25; 160:19;213:22; 219:23;221:7,8,11; 222:8;228:5;230:9 mostly (1) 163:7 move (12) 114:12;119:15; 125:22,25;137:18; 145:10;149:20; 153:3;165:8,11,12; 196:10 moved (4) 160:3;166:3;167:8; 172:17 moves (4) 133:13;157:7; 159:10;160:24 moving (2) 137:14;162:18 MSO (89) 72:5,11;73:10;	74:8;75:7,19;77:25; 79:1,4,14,21;80:2,3, 5,8;82:18;83:1,13; 84:12,14;93:17,22; 97:22,25;99:4,18; 100:9;101:24;102:6; 103:14,24;104:25; 105:5;106:5,12,13; 107:14;108:4,8; 109:6,9,14,15;110:1; 112:16;113:10; 120:8,21;134:5,12; 137:16;142:10,13; 168:13,18,23;175:20; 177:1,6,8,9;180:8,18; 191:16,22,23,24,25; 193:2,5,7,11,13,16, 17,20,23,25;194:3,4, 7,14,18;195:16,20; 196:4;199:6;202:22, 24 MSOs (1) 105:15 MSO's (1) 107:9 Much (6) 101:15;204:17; 233:2,6;234:12,14 multiple (3) 83:3;98:20;140:14 MYM (1) 189:12 N name (30) 110:15,17,17; 129:23;131:4,9; 132:4;134:16; 137:10;138:3; 141:23;164:13; 168:7,10;175:8; 176:3;179:17,25; 184:21,21;187:6; 189:13,13;190:15,17; 208:8,18,20,21;214:8 named (1) 229:24 names (2) 169:12,16 National (1) 72:7 necessarily (2) 101:4,9 necessary (4) 77:3;147:3;162:13; 202:10 need (22) 73:11,13,19;87:17; 90:25;92:16;98:5; 101:17;107:9; 124:17;125:17; 127:16,20;139:5;	170:17;171:18; 179:5;205:20,24; 213:3;231:19;232:25 needed (4) 134:11,11;152:16; 193:21 needs (4) 127:25;128:1; 205:22;208:22 negative (1) 196:9 neighborhood (1) 181:25 New (131) 72:4,5,10,13;75:8; 77:24,24;78:4,23; 79:1,6,6,21;80:1,18; 81:3;84:12;85:9,15, 19;86:2,6,10;88:2; 91:8,24;92:4;93:15, 16,17,20,21,24; 94:16,19;95:12; 98:17,19,21,22; 99:17;100:23;101:3; 105:8;106:23,24; 108:3,11;110:1; 111:7,19;112:22; 113:1,11,12;116:14; 118:22,22;119:23; 121:9,9;124:9; 126:13,14;127:1,12, 14,23;129:25;132:7, 14;133:6;134:12,19; 136:10,13;137:12,12, 16,17;141:2;142:6, 11;146:11;148:12; 149:12,15;151:8; 161:18,21;164:22; 165:3,25;166:17,20, 21;167:8;172:21; 176:5;191:23,25; 192:2,7,18,23; 193:22;195:18; 198:10,14,15;204:17; 205:19;206:8,13,14, 15;207:4,7;210:3,7, 12;212:12;213:14; 214:2;224:15; 230:22;233:1,11,15, 19,21 next (6) 138:10;142:8,8; 225:2;231:21,24 nights (1) 200:23 Nila (4) 169:18,19,20; 171:13 Noble (2) 167:12,17 nobody (1) 178:3 non- (6)
--	--	---	--	--

80:10;83:18,23; 88:25;89:8;103:23 non-acute (4) 94:18;103:25; 104:6,14 non-adversarial (1) 110:8 none (8) 86:7;97:25;105:17; 172:20;181:20; 186:18;199:10; 218:16 non-existent (1) 120:12 non-professional (6) 80:10;84:18;88:21; 89:2;90:7,8 non-question (1) 126:1 nor (3) 81:11;91:13; 107:19 normal (1) 222:23 Nos (1) 75:10 notation (2) 152:4,7 note (1) 104:12 Noted (3) 72:2;82:13;109:2 notes (1) 174:10 notice (7) 72:14;73:3;82:5; 98:16,18;99:10; 204:18 notwithstanding (1) 83:16 novel (1) 81:2 November (4) 133:12,15;191:6,7 number (22) 76:11;118:25; 119:7;137:23,23; 138:6,6,8;139:4; 142:6;156:14;158:7; 192:2,5,6,7,8,16,18; 201:23;214:13;215:8 numbers (5) 136:19;144:24; 145:3,8;230:13 nurse (10) 80:25;84:6,6,9,11, 23;85:1;107:24; 188:16,25 nurses (7) 79:4,6,17;80:13, 14;102:14,14 Nyb (1) 126:10	NYM (1) 216:12 NYP (2) 207:3,7 O object (10) 138:11;139:24; 140:11;147:1;155:2, 15;196:20;197:6; 225:25;226:8 objecting (4) 138:21;143:19,19, 20 objection (46) 73:23;75:2;76:4,6; 113:8;114:13; 115:14;117:4,10; 120:1,10,16,18; 121:3;129:16; 133:17,24;136:1,2; 139:8,16;143:17,23; 145:11,12;146:19; 149:21;156:3; 157:16;159:14; 160:5,6;161:23; 162:19;163:3;177:2; 192:11;203:8; 210:21;211:3; 213:16;216:25; 221:16;225:22; 226:19;227:11 objectionable (1) 156:1 objections (2) 75:5;162:8 obtain (2) 151:3,17 obtained (6) 150:14;196:17,21, 22,23,25 obtaining (1) 151:6 obviously (1) 77:16 occasionally (1) 184:11 occur (2) 208:24;209:1 occurred (1) 118:1 o'clock (1) 228:21 off (26) 74:23;77:7,8,9; 108:22;124:1; 128:15,25;129:3; 136:20,21;137:25; 145:21;149:1; 153:19;154:1; 155:13;169:16; 188:7;189:21;197:9,	10;203:24;215:7; 234:17,18 offer (3) 142:20;144:18; 159:19 offered (2) 142:14;144:9 offering (2) 142:15,18 offers (1) 146:18 office (118) 78:9;81:13,17; 84:5,21;89:5;100:11; 101:15,25;111:15,19; 112:11;123:6,18; 124:10,12,13,14,15, 20,21;125:12,16,17, 18,19;126:16,24; 127:5;128:8;130:23; 131:2,3,6,18;133:21; 134:9,9;160:17; 163:1,9,10,12,19; 167:8,8,13;170:15; 171:21;172:16; 177:17,20,22;178:15, 19;179:3;180:11,17; 181:1,1,6,8,12,13,24; 182:2,4,8,21;183:12, 15;184:5,23;186:9, 12;188:21;190:13; 195:8,12;200:20,21, 23;202:13,15,16; 203:18,25;205:13,15; 206:2;208:25;209:2, 7,9;210:10,19;212:6, 9,10,12,15;213:20; 216:1;218:3;220:6,7; 222:17,18;225:17; 226:10;227:24; 228:18,18,19;229:6; 231:6,20;232:20 OFFICER (537) 72:3,6,24;73:1,8, 12,14,18,21;74:2,6, 10,12,19,22,25;75:6, 12,15,22,25;76:8,12, 14,18,23;77:1,5,9,11, 13,19;79:8,11,15,20; 80:15,21,23;81:1,7, 25;82:4,7;83:25; 84:8,10,15,19,25; 85:3,6,11,19,25;86:3, 9,21,24;87:3,10,16, 20,25;88:6,8,11,14, 16,25;89:3,5,8,11,13, 16,18,20,23;90:5,7, 10,20,25;91:5,15,19; 92:2,9,13,18;93:4; 94:13,22,25;95:8,17, 25;96:9,12,15,23,25; 97:15,18,21,23;98:2, 14;99:2,5,9;100:14,	16,22;101:1,5,8,11, 21;102:5,8,17,24; 103:7,22;104:8,11, 18,21,24;105:3,19; 106:17,22;107:3; 108:1,14,17,21; 109:3,12,20,23; 110:3,7,11,14; 111:24;112:1,4,8; 113:6,14,17,25; 114:13,20,22,24; 115:1,4,8,9,11,17,21, 25;116:4,7,21;117:5, 11,18;118:4,9,11; 119:17;120:2,11,14, 17,20;121:5,7,15,20, 24;122:4,7,10,13,15, 24;123:20,24;124:3, 17,19;125:3,5,7,24; 126:2,10,12;127:15, 18,21;128:19,23; 129:2,7;130:1,6,10, 12,14;131:9,11; 132:18;133:3,5,8,14, 17,25;134:19,23; 135:1,6,16,21,23; 136:1,3,16,21; 137:24;138:2,13,18, 22,25;139:1,14,19, 23,25;140:5,12,16, 19,21;141:1,6,9,13, 16;142:14,19,24; 143:1,18,22,25; 144:5,19,22;145:1,5, 7,9,11,13,17,21,24; 146:20,25;147:10,21, 25;148:5;149:1,3,22; 150:1,10,13,21; 152:1,8,11,23;153:2, 11,13,16,19,22,25; 154:13,18,22;155:5, 8,11,18,21,25;156:2, 6,15,20;157:9,17; 158:9,10,12,14,17; 159:3,12,22,24; 160:1,6,10;161:10, 12,14,17,24;162:2,9, 14,17,21;163:5,17; 164:1,15,19;165:13; 166:9,19,23;167:2,4, 10,15;168:4,8,16,20; 169:15;171:1,5; 173:7;175:18,22,24; 176:18;177:3; 178:16,18,24;179:1, 10,20,23,25;180:2,8, 11,14,17,21,24; 181:4,7,11,14,18; 182:1,24;183:3,9,23, 25;184:13,15,17; 185:5,9,13;188:5,7,9, 19;189:6;190:20,22; 191:1,4;192:13,16;	193:3,15;194:9,15, 19,24;195:2,5,7,10; 196:1,6,13,16,23; 197:1,7,12,17,25; 198:3,13,19,21; 199:8,14;201:8,11, 21;203:9,16,20; 204:12,21,24;206:9, 12,17,21,24;207:2, 15,18;209:12;210:22, 25;211:4,10,13,16, 20;212:9,14;213:10, 18,21,24;214:2,6,25; 215:3,6,9,13,16,20, 22,25;216:4,10,14, 17,21;217:4,21; 219:11,23;220:1,12; 221:1,5,8,11,15,18, 24;222:1,6,10,25; 223:3;224:10,16,23; 225:7,10,13,16,20, 23;226:3,12,22,25; 227:2,5,7,15,17,20, 22;228:1,8,14,17,20, 24;229:3,7,10;232:2, 5,7;233:7,14,22; 234:12,15,18 offices (11) 101:24;178:5,9; 179:8;181:10; 182:24;183:5; 186:16;189:3;202:9; 217:13 often (3) 132:1;209:24; 214:5 old (1) 113:13 once (5) 81:25;91:22; 184:16;223:1,2 one (77) 75:8,8,12;76:7,8, 10,21,25;77:17,17; 83:6,6;85:3;87:5; 89:24;96:5;98:11; 104:12,13,22;106:21; 108:22;109:3,12; 128:1;130:4,24; 131:16,24;133:4,12; 135:18;137:25; 140:23;141:15; 142:5,11,15;143:15, 20;145:22;146:21; 151:10;153:20; 155:12,13;156:8; 157:10;164:3;166:8; 167:1;168:19; 177:17;178:21,21,21; 179:5,13;186:8,9,11, 11,16;187:24,24; 188:17,17;189:3; 194:3;195:21,22;
---	--	---	--	--

209:18;210:18; 211:7,22,24;230:10 ones (5) 91:12;174:11; 200:20;217:19;229:9 one's (1) 135:18 ongoing (1) 203:11 only (18) 76:19,21;77:1; 89:23;90:11;95:21; 98:8;103:21,22; 107:24;134:21; 143:10;155:1; 174:12,23;203:3,5; 218:20 on-site (1) 128:6 onto (2) 151:9;176:3 op (1) 204:10 open (5) 91:7;104:9;147:3; 209:7;213:6 opened (2) 99:10;229:10 opening (2) 72:13;96:4 operates (1) 220:14 operating (1) 91:21 operation (1) 200:25 operations (2) 81:21;100:13 opportunity (10) 77:15;78:19;94:8; 95:6,9,10,12;104:16; 107:17;154:3 opposed (4) 82:11;92:4;96:3; 175:2 oral (2) 95:13,13 order (7) 72:4;125:15; 136:17;170:19; 221:18;230:14;234:8 ordered (4) 213:4;214:24; 215:2;218:1 ordering (2) 233:8;234:4 orders (2) 102:15,16 organization (1) 76:4 orientation (23) 115:20;116:10,13, 15,17,24;117:1,24,	25;118:23;119:1,8; 120:7,8;121:2,10,21, 24;122:20;132:12, 25;133:6;199:18 original (4) 114:14;149:25; 195:9;199:18 originally (1) 147:19 osteopath (1) 164:14 Osteopathy (1) 164:14 others (1) 130:25 otherwise (2) 187:25;196:12 out (57) 74:14;78:13;86:21; 87:1;95:6,25;106:25; 107:1;111:12,14; 112:10;134:19,22; 135:3,4,24;136:13; 138:14,20;139:3,7; 141:2,3,20;142:16; 145:2,4;146:13; 148:1,10,13;150:10; 154:2;164:2;167:4; 171:4;172:5,6; 187:16,17;190:2; 192:23;193:3,17,20; 199:5,11;201:16; 208:11;213:7; 221:21;223:12; 225:3,5,7;228:3,5 outside (2) 182:3;198:7 outstanding (1) 91:2 over (25) 74:13;113:13; 115:10;131:1; 132:25;140:14; 161:5,8;163:18; 167:12,17;172:17; 181:10;187:24; 208:11;215:7,18; 219:10,11,14;228:6, 6;229:15;230:6; 231:11 Overruled (3) 117:5;125:24; 211:4 overruling (4) 120:18;143:22,25; 156:2 own (2) 80:5;100:7	packet (1) 109:21 page (36) 118:3,4,5,10,11,13, 14,19,20,23;123:13, 13,13,14;137:2,4,11, 14,22;138:3,10,24; 140:10,10,16,23; 151:5,7,12;153:7; 154:4,6,7,7;191:20; 192:8 paged (1) 139:16 pages (5) 142:8,8,12;153:7; 154:2 paid (2) 204:18;234:8 paper (9) 134:11;157:1; 172:25;174:9; 189:12;215:5;218:5, 6,7 papers (10) 73:24;74:25;75:2; 128:15,25;134:10; 192:18,21;193:18,20 paperwork (15) 128:8;129:23; 135:13,14,17;171:18, 18;192:24;225:3,8,9; 228:3,13;231:9,23 Park (50) 78:3;79:24;101:2; 103:14;110:24; 111:1,6,7;125:1; 160:17;165:9;166:6, 12,13,14;167:6,7,20, 24;168:1,14,24; 171:10,14;172:9,14, 18;176:21;178:6; 179:9,12,15;181:2; 182:3;186:5,16; 188:22;189:2;202:7; 207:22;210:6,16; 211:2;212:23; 213:11;216:23; 218:17;220:4,19; 230:24 Parkslope (2) 176:19,22 part (15) 75:24;81:18,20; 91:23;93:15;94:6,17, 18;100:12;101:6; 115:22;141:9; 176:17,20;211:1 participate (1) 104:17 particular (4) 78:11;109:16; 208:7;211:18 parties (6)	72:18;76:3;77:15, 15;89:20;154:4 partly (1) 113:14 parts (1) 121:11 part-time (2) 185:12;200:17 passed (1) 164:9 past (2) 151:14;227:18 patience (1) 110:22 patient (42) 84:22;89:23,24; 90:1;104:19;127:25, 25;129:2,4,22;172:5, 12,24,24;173:24; 174:19,23;176:3; 200:24;205:12,12,17; 208:18,19,22;209:17; 213:4;221:9,13; 225:20;226:1,5,20; 228:10,11;231:19,21, 24;232:12,12,19,21 patients (65) 80:19;90:23; 100:15;101:1,3,14, 15,17;102:2,3,20; 125:12,15;128:14; 132:9;166:5,6; 170:16,17,20;171:16, 17;172:4;173:20,22; 174:3,16,17,17; 178:20;182:8,12; 185:16;186:2,10,13; 187:15,16,18;188:25; 201:18;202:1;210:1, 2,2,3,5,9;214:11,14; 219:16;220:3,4,6,8,9; 221:2,7,20;223:9,11, 13;227:6;231:10; 232:14 patient's (2) 174:21;208:18 Pause (10) 115:3;138:1; 145:18,23;155:11; 157:11;162:11; 180:20;197:11; 222:11 Pavilion (2) 123:21;124:6 pay (10) 80:2;100:5;144:17; 151:14;191:3,6,8,16; 193:22;204:19 paycheck (11) 146:23;177:9; 194:4,11,12,13,17,21, 25;195:19;204:18 paychecks (4)	177:8;194:3,6,21 payer (1) 147:6 paying (1) 147:8 payroll (4) 147:7;190:1; 192:25,25 pays (1) 100:14 paystub (4) 144:14;145:14; 232:6,7 PC (3) 176:15,16,18 people (14) 79:5;80:24;93:2; 97:13;104:3;107:23; 121:21;170:1; 179:18;181:1,5; 205:24;216:23;233:3 percent (3) 191:6;230:15; 233:5 perfect (1) 184:7 perform (7) 80:1;82:24;100:4; 172:13;209:22; 227:1,2 performance (3) 131:13,20;227:23 performed (7) 112:21,25;131:17; 132:13,15;206:3; 207:21 performing (1) 219:1 performs (4) 129:12;132:3; 208:1;209:10 period (1) 140:14 permission (1) 203:24 permitted (1) 104:13 person (25) 104:12,14,19,22; 105:1;127:4,8;130:4; 179:20;180:22,24; 183:23;185:2;208:7; 213:20;215:19; 216:3,8,17,18,19,19, 24;226:7;229:25 personal (3) 155:1;158:13,20 personally (1) 157:3 person's (2) 179:25;180:2 perspective (1) 105:16
--	--	--	---	---

Peter (2) 126:11,12	127:4,6;216:3	position (43) 73:6,10,15,17;75:7, 13,14;78:18;81:4; 84:2;85:16,20;86:5,7, 9,16;87:18,20;88:23; 89:19;90:12,15;91:1, 22;93:8,12,21;94:14; 98:21;99:4,6;105:6; 107:5,14,18,20; 110:1,23;121:15; 159:13;169:14,17; 202:20	83:3	21,25;233:12
petition (23) 74:18;82:17;83:14; 84:9,17,18,20;96:21; 99:16,19;100:2; 105:7,15,16;109:7, 10,16;154:12,17; 155:17,20,24;196:22	picture (4) 115:6,10;161:3; 188:20	positions (5) 72:17;77:14;88:17; 95:21;108:19	precludes (1) 81:16	procedures (23) 120:25;125:14,16; 131:1;136:10;172:7; 182:8;186:2,5; 199:16;206:3; 207:21,24;208:1; 209:9;210:10;231:7, 8,10,11;232:15; 233:9,10
petitioned (2) 106:4;179:18	Pietrzyk (3) 180:1,15;184:19	positive (3) 85:24;86:19;164:2	predate (2) 113:10,11	proceed (3) 93:13;94:1,10
petitioner (3) 72:11;78:25;109:7	Place (3) 101:6;180:22; 221:23	possession (1) 199:21	prepared (3) 73:9;94:1;154:23	proceeding (1) 147:3
petitions (3) 73:13;78:20;83:6	places (3) 206:3;217:20; 218:3	possibility (1) 104:5	Presbyterian (4) 126:14;206:13,14, 15	proceedings (2) 76:21;234:19
ph (1) 209:8	planned (1) 115:23	post (1) 126:20	prescribe (3) 80:19;102:11,18	process (2) 125:17;151:17
pharmacists (1) 91:11	Plaza (1) 166:12	postage (3) 126:21,22,23	present (3) 116:15,25;121:1	produce (1) 147:20
phone (5) 172:3;203:4; 214:13;223:5;229:15	please (8) 75:1;110:12,14; 114:2;153:8;157:10; 191:19;193:10	PPW (2) 160:17;170:12	presenters (2) 120:8,24	produced (1) 154:2
phones (3) 125:13;170:18; 223:6	plus (3) 117:1,11;152:17	practical (1) 84:22	presenting (1) 142:17	profession (1) 80:10
photo (1) 157:23	pm (13) 108:24;109:2; 136:23,23;149:2,2; 153:21,21;155:14,14; 189:7,7;234:19	practice (81) 72:23,25;78:3,16; 79:5,23;80:6,25; 81:15,20;82:23,24; 94:17;95:23;100:10, 12;101:13;102:19, 22;103:13,14;163:2; 164:18,22;165:8,11, 12,19;169:4,8;173:8, 8,21,22,24,24,25; 174:5,16,17,19,24; 175:17,23;176:8,9, 10,11,12,13,25; 183:5;186:9,12,15, 15;193:7,11,13; 200:11;201:7,19,24; 202:2;214:18;217:7, 9;218:7,17;220:4,9, 18;222:5;226:2; 232:24;233:20,23,25; 234:1,6,9	pre-surgical (1) 205:18	professional (31) 78:5,22;79:13; 80:9,11;83:15,19,23, 24;84:18;86:7,10,13, 16;87:23;88:21;89:1, 9;90:16,18,19,21; 91:8,9,14;94:5; 100:19;107:17,20; 108:10,10
photograph (2) 160:14;162:18	POB (1) 159:3	practices (7) 77:17;79:23;99:16; 100:12;101:22; 103:9;106:12	pre-testing (1) 205:19	professionals (15) 79:18,19;80:13; 83:18,22;85:8,12,15, 17,21;87:11,21; 92:17,20;104:1
physical (3) 148:15;194:21,25	point (32) 73:4;78:13;82:1,8, 12;85:13,14;95:15; 98:19;102:25; 105:14;106:17; 107:3,4,7;108:15; 120:7;139:3,7; 141:24;142:3;143:3; 145:2;146:13; 150:10;177:16; 196:6,9;222:1,2,8; 226:3	precedent (2) 81:17;83:10	prices (1) 205:25	professions (1) 83:21
physician (49) 78:21,24;79:1,16, 23,23;80:12,15,17, 17,20;83:22;84:23; 85:24;86:1;87:14,24; 88:17;92:6,7,8,10,12; 94:3,6,9,11;97:3,7; 99:16;102:4,9,12,15, 22,22;103:9;163:6; 164:6;169:6;176:19, 22;179:8;186:23; 187:1,5,12,21;226:1	pointed (2) 74:13;106:25	precluded (1)	primary (1) 218:25	profit (1) 79:21
physicians (25) 82:8,23;100:10; 101:13,19,22;102:2, 4,19;130:8,9;163:2, 24;164:18,21;169:1; 176:23;178:5,8; 186:9,11,16;211:5; 218:18,20	pointing (4) 95:25;124:4,5; 138:14	Pre-admitting (1) 208:6	print (2) 154:2;213:6	program (1) 214:8
physicians' (2) 81:15,20	points (2) 107:10,10	practice's (1) 173:13	printed (1) 154:16	prohibits (1) 97:11
physician's (16) 72:25;81:17;85:7, 8;87:25;88:2,12; 90:14,15,16,23;91:6, 16;97:12;101:20; 167:13	policies (11) 118:25;119:1,3,4; 120:24;122:2; 132:23;136:7; 199:16,21,24	practicing (1) 164:16	prints (1) 148:1	proliferation (3) 83:7;97:13;105:9
pick (6) 96:11;127:8,9; 205:14;216:5,24	policy (2) 133:20;200:3	practices (7) 77:17;79:23;99:16; 100:12;101:22; 103:9;106:12	prior (4) 75:16;93:9,11; 165:2	pronounce (2) 184:20,21
picks (3)	population (2) 222:4,5	precedent (2) 81:17;83:10	private (16) 101:22;174:16,17, 19,23;175:17;176:8, 9,10,11,12,13,25; 186:9,11;222:5	pronounced (1) 184:22
	portion (1) 131:2	precluded (1)	privilege (2) 226:20,21	pronouncing (1) 184:19
	pose (1) 87:12		privileges (5) 100:23,25,25; 164:22;165:21	Prospect (54) 78:3;79:24;101:2, 6;103:14;110:24; 111:1,6,7;125:1; 160:17;165:8;166:6, 12,13,14;167:6,7,20, 24;168:1,14,24; 171:10,14;172:9,14, 18;178:6;179:9,12,
	poses (1) 93:24		problem (8) 79:11;83:8;87:4, 13;93:25;141:16; 153:10;175:4	
			problems (2) 104:4;224:14	
			procedure (16) 172:5;200:3; 205:14,16,22;208:18, 20;214:15;228:12; 229:21;231:6,13,19,	

15;180:22;181:2; 185:4;186:5,16; 188:22;189:2;190:6; 202:6;207:22;210:5; 16;211:2;212:23; 213:11;214:18; 216:23;218:17; 220:4,19;222:16; 230:24 protection (2) 87:18;158:8 provide (8) 100:4;108:19; 156:12;159:23; 197:4;201:23; 232:14,19 provided (5) 80:2;94:7;101:23; 102:6;149:16 provider (1) 222:14 provides (1) 79:22 providing (2) 232:12,21 public (4) 156:9;159:16,17; 226:1 punch (7) 170:6,7,13;190:2,2, 24;214:8 purchased (1) 217:16 purchases (1) 217:10 purchasing (1) 234:4 purpose (8) 149:25;154:23; 196:21,25;197:22; 198:7,7;213:2 purposes (5) 155:10,24;156:9; 190:1;196:17 pursuant (2) 94:8;95:12 put (26) 73:5,11,13,17;76:9, 11,16;84:11;92:23; 96:18;98:17;106:21; 109:6;140:4;143:2; 147:4;148:17; 151:13;153:16; 191:4;196:12; 208:17;215:4; 216:12;230:3,13 putting (7) 73:24;75:24,25; 76:5;87:13;156:9; 168:17	quadrant (1) 159:7 question's (1) 139:25 quick (1) 229:9 quite (1) 159:7 quote (1) 83:5 R radiology (11) 129:13,14,15,19, 24,25;130:1;171:18; 172:4;213:3,6 raise (3) 78:13;83:12; 110:12 range (1) 117:12 rare (3) 221:13,15;222:8 rate (1) 232:5 RC (3) 82:17;109:7,9 read (9) 134:25;135:1; 137:10;146:10; 152:7;161:9,12; 169:15,16 reader (3) 142:16;147:12; 169:13 really (8) 95:22;102:21; 106:20;107:14; 139:13;170:4;201:7; 220:11 reason (6) 76:19;92:3;139:8; 143:10;192:23; 196:11 reasons (1) 105:5 recall (7) 148:17;162:12; 194:17;195:25; 196:4;208:8;215:15 receive (8) 127:13;128:4; 131:22;132:8; 133:11;157:3;158:3; 210:6 received (18) 93:17;115:18; 120:4;131:13,20; 134:1;136:5;143:9; 145:14,15;147:15; 150:3;156:4;157:19; 160:8;162:10;	195:19;204:4 receives (1) 182:12 receiving (2) 116:17;148:23 recent (5) 151:21;152:18,25; 160:19;207:4 Recently (2) 167:7;201:7 Reception (1) 170:12 Recessed (8) 74:24;77:10; 108:24;136:23; 149:2;153:21; 155:14;189:7 recognize (13) 93:22;117:20; 132:20;135:10; 136:25;144:11; 146:3;149:9;150:6; 156:23;157:24; 158:24;160:13 recognized (2) 100:5;150:25 reconvened (8) 74:24;77:10; 108:24;136:23; 149:2;153:21; 155:14;189:7 record (82) 72:13,14,15;73:6,7, 11,13,17;74:14,15, 23;75:16;76:5;77:7, 8,9,12;81:4,10;82:1; 88:2;90:12,22;92:5; 93:9;95:16,19;97:1; 98:5,17;99:10,14; 107:5,8;108:22; 109:5,6,9,14,15,15; 110:15;115:11,15; 124:3;136:20,21; 137:25;139:9,12,17; 141:10;142:16; 145:21;147:12,12; 149:1,3;153:17,19, 22;154:1;155:13; 156:10,13;159:16,18; 169:13;173:14; 174:20;188:7;197:9, 10,13;207:12,14,15; 214:9;226:1;232:11; 234:17,18 records (18) 73:2,3;76:20; 173:6,11,14,20,21,23, 24,24;174:2,5,5,7,8, 15,18 RECROSS-EXAMINATION (2) 217:5;232:9 rectangle (1) 124:4	red (1) 128:24 redact (3) 144:24;158:7,19 redacted (3) 156:11;158:13; 159:23 redacting (1) 159:21 redactions (5) 136:17;144:20; 156:11,12;159:13 REDIRECT (2) 205:3;229:11 redress (1) 226:13 refer (6) 111:4;122:7; 123:10,12;173:23; 202:4 reference (2) 74:7;143:13 references (1) 197:19 referencing (2) 74:16;197:20 referrals (1) 174:11 referred (3) 131:6;210:14; 211:25 referring (7) 111:5;126:25; 152:20;155:6;161:6; 195:3;206:7 refers (1) 197:14 refills (1) 187:15 reflect (2) 140:9;146:22 reflected (1) 141:23 reflects (3) 109:6;115:15; 140:7 regard (2) 78:11;79:3 regarding (2) 72:18;109:16 regardless (2) 93:14;168:20 regards (1) 107:25 region (1) 100:3 Regional (2) 109:9,18 registered (5) 79:4,17;80:25; 188:16,25 regular (3) 126:18;131:24,25	regularly (3) 130:3;179:8; 216:23 reiterate (1) 99:3 rejected (1) 103:9 Relations (3) 72:7;80:5;100:7 relationship (3) 99:22;105:11,22 relationships (1) 101:14 relevance (6) 147:1,5;155:16; 206:22;210:21;211:5 relevant (6) 147:3,7,10;148:4; 197:13;203:10 rely (1) 108:18 remainder (1) 92:3 remarks (1) 81:2 remember (17) 113:5;116:20,22; 125:5,8;134:6,13,16; 135:5,22;177:15,21, 21;194:13;199:7; 202:17,17 reminding (1) 73:9 repeat (2) 107:14;193:9 repeatedly (1) 105:8 repeating (1) 93:10 rephrase (5) 166:4;168:23; 179:10;209:17;210:4 replacement (1) 130:5 report (6) 154:11,16,23; 155:1;190:1;224:17 reported (1) 123:5 reports (2) 174:10;213:3 represent (20) 78:22,25;79:3,9, 18;80:12,14;85:8,24; 86:10;87:14;92:19, 21;93:2;94:4,6,20; 95:23;100:6;106:13 representation (7) 83:12;84:16;89:4; 105:24;106:2,11; 175:18 representations (1) 120:15
Q				

representative (1) 112:7	96:1	room (9) 109:25;116:16;	14,18,23;77:1,5,9,11,	19;165:13;166:9,19,
represented (11) 79:5;82:19;86:6; 87:19;88:3;91:6,8; 96:8;103:18;106:7, 15	response (15) 73:19;74:1;89:22; 93:11;95:4;96:5; 107:15;166:18; 184:4,10,14;186:25; 198:12;200:18; 201:20	123:6;126:24; 128:11,13;129:4; 230:8,13	13,19;79:8,11,15,20; 80:15,21,23;81:1,7, 25;82:4,7,83:25; 84:8,10,15,19,25; 85:3,6,11,19,25;86:3, 9,21,24;87:3,10,16, 20,25;88:6,8,11,14, 16,25;89:3,5,8,11,13, 16,18,20,23;90:5,7, 10,20,25;91:5,15,19; 92:2,9,13,18;93:4; 94:13,22,25;95:8,17, 25;96:9,12,15,23,28; 97:15,18,21,23;98:2, 14;99:2,5,9,100:14, 16,22;101:1,5,8,11, 21;102:5,8,17,24; 103:7,22;104:8,11, 18,21,24;105:3,19; 106:17,22;107:3; 108:1,14,17,21; 109:3,12,20,23; 110:3,7,11,14; 111:2,4;112:1,4,8; 113:6,14,17,25; 114:13,20,22,24; 115:1,4,9,11,17,21, 25;116:4,7,21;117:5, 11,18;118:4,9,11; 119:17;120:2,11,14, 17,20;121:5,7,15,20, 24;122:4,7,10,13,15, 24;123:20,24;124:3, 17,19;125:3,5,7,24; 126:2,10,12;127:15, 18,21;128:19,23; 129:2,7;130:1,6,10, 12,14;131:9,11; 132:18;133:3,5,8,14, 17,25;134:19,23; 135:1,6,16,21,23; 136:1,3,16,21; 137:24;138:2,13,18, 22,25;139:14,19,23, 25;140:5,12,16,19, 21;141:1,6,9,13,16; 142:14,19,24;143:1, 18,22,25;144:5,19, 22;145:1,5,7,9,11,13, 17,21,24;146:20,25; 147:10,21,25;148:5; 149:1,3,22;150:1,10, 13,21;152:1,8,11,23; 153:2,11,13,16,19,22, 25;154:13,18,22; 155:5,8,11,18,21,25; 156:2,6,15,20;157:9, 17;158:9,12,14,17; 159:3,12,24;160:1,6, 10;161:10,12,14,17, 24;162:2,9,14,17,21; 163:5,17;164:1,15,	23;167:2,4,10,15; 168:4,8,16,20; 169:15;171:1,5; 173:7;175:18,22,24; 176:18;177:3; 178:16,18,24;179:1, 10,20,23,25;180:2,8, 11,14,17,21,24; 181:4,7,11,14,18; 182:1,24;183:3,9,23; 25;184:13,15,17; 185:5,9,13;188:5,7,9, 19;189:6;190:20,22, 191:1,4;192:13,16; 193:3,15;194:9,15, 19,24;195:2,5,7,10; 196:1,6,13,16,23; 197:1,7,12,17,25; 198:3,13,19,21; 199:8,14;201:8,11, 21;203:9,16,20; 204:12,21,24;206:9, 12,17,21,24;207:2, 15,18;209:12;210:22, 25;211:4,10,13,16, 20;212:9,14;213:10, 18,21,24;214:2,6,25; 215:3,6,9,13,16,20, 22,25;216:4,10,14, 17,21;217:4,21; 219:11,23;220:1,12; 221:1,5,8,11,15,18, 24;222:1,6,10,25; 223:3;224:10,16,23, 225:7,10,13,16,20, 23;226:3,12,22,25; 227:2,5,7,15,17,20, 22;228:1,8,14,17,20, 24;229:3,7,10;232:2, 5,7;233:7,14,22; 234:12,15,18
representing (1) 113:12	responsibilities (1) 82:22	roughly (2) 125:5;157:5		schedule (26) 100:3;102:2; 125:12;131:2; 170:17,24;172:7; 176:4;206:9;209:16, 19,25;210:10,19; 211:18;228:11; 229:18,19,21;230:1, 4,4,5,11,16;231:24
represents (1) 87:11	responsibility (1) 232:19	routine (2) 170:14,17		scheduled (5) 116:18;205:5; 207:24;228:6;231:11
request (11) 149:14;153:24; 154:11,16;189:12,14, 16,22;197:4;199:1; 215:14	restroom (1) 188:6	routinely (1) 178:3		schedules (4) 172:11;176:4; 200:16,17
requested (8) 149:12;155:23; 189:9,13;197:23; 198:1,25;199:3	results (3) 76:20;187:16,17	routing (3) 144:24;145:3,8		scheduling (5) 172:5;205:10; 206:2;229:13;232:20
requests (1) 189:11	returned (1) 167:20	rule (1) 139:17		Schulz (5) 130:19;170:25; 208:2;209:15;211:21
require (1) 96:6	revised (1) 132:24	rules (7) 79:17;81:11;95:12; 103:1;104:5;105:10, 25		
required (1) 147:18	Revzin (2) 169:18;171:13	running (4) 100:11,11;101:25; 115:10		
requires (1) 205:1	Right (76) 74:11;76:2;77:6, 21;87:23;88:11; 90:10;91:3;92:9; 94:22;96:3;97:15; 98:12;104:20,24,24; 106:22;108:14; 110:4,11,12,21; 112:6;113:3;115:25; 116:1;118:6;122:11, 13;123:25;124:5; 135:20;136:16; 138:3,18;140:21; 141:12,13;143:18; 144:15;145:9;146:7; 147:16;150:1,5; 152:25,25;156:2; 157:17;158:14,21; 159:7;160:1;162:12, 21;179:9;180:3,4; 185:13;188:9;197:1; 198:22;199:11; 203:16,20;207:6; 210:13;211:21; 215:15;216:21; 220:17;221:24; 229:7;231:7;232:7; 234:12	S		
reschedule (1) 170:17		safety (1) 131:22		
reserve (1) 162:12		sake (1) 117:25		
reserved (1) 208:10		salaries (1) 153:9		
residual (20) 78:24;80:9;83:1,4; 91:17,20,21;92:3; 93:1,96;7,7,12,15,19; 97:2,7;99:19;105:5,7, 8		salary (2) 152:22;232:3		
resolve (1) 203:7		same (22) 72:10,18;74:4; 83:11;104:1;105:4; 106:8;114:8;119:10; 130:1,4;137:14; 150:12;169:20; 170:2,3;178:3; 186:23;196:8;216:3, 8;226:21		
resolved (1) 83:21		Saturday (1) 200:21		
resolving (1) 202:15		saw (4) 177:15;193:20,23, 25		
resource (6) 100:8;111:15; 112:7;149:15;151:5, 7		saying (8) 77:19;82:15;95:21; 116:10;133:5; 159:21;177:21; 207:11		
resources (10) 80:6;111:19;134:9, 13;148:14,15;151:9, 9,11;202:21	right-hand (1) 118:6	scan (1) 175:3		
respect (11) 82:6;86:5,15; 93:15,18;94:2,3,7,8, 11;107:15	ringing (1) 203:4	scanning (1) 172:3		
respond (2) 95:4;107:8	RN (8) 80:16;84:7,8,12, 14;180:7,9,10	SCHAFFER (533) 72:3,8,24;73:1,8, 12,14,18,21;74:2,6, 10,12,19,22,25;75:6, 12,15,22,25;76:8,12,		
responded (1) 107:9	RNs (1) 84:16			
responding (1)	robotic (1) 209:6			
	rolls (1) 218:6			

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75:7,13,14;84:2; 95:3;96:2;107:5; 142:13;143:6;148:6	204:4	suppose (2) 127:25,25	194:9;204:25;233:3	third (3) 123:17;137:6; 230:8
states (1) 198:4	subsequent (1) 77:2	Sure (34) 74:21;75:8;77:21; 87:12;113:17;115:9;	tech (8) 129:9,13,14,15,19, 24,25;130:2	though (8) 77:22;79:5;96:16, 21;113:15;144:5; 182:21;184:22
stationed (5) 122:20,23;123:4; 124:23,25	subsequently (2) 109:8;141:21	125:4,15;141:24; 145:17;148:5;	technical (24) 78:6;86:19;88:18, 20,22;89:6,14,18,19, 25;90:16,19,20;98:9, 12,17;103:19;104:6; 107:16,18;108:8,9,9; 135:2	thought (2) 77:5;232:2
status (2) 76:4;204:19	substantially (1) 72:18	153:15;164:3; 168:16;184:19; 191:18;193:4; 195:23;201:22; 202:23;204:20,22; 210:12;212:3; 216:16;217:2; 220:10,11,24;225:9, 13,19;229:10;230:18	teed (1) 105:21	three (10) 142:8,12;159:15; 164:3;167:18,22; 172:16;177:10,14; 194:17
steps (1) 205:18	substitutions (1) 75:4	Surely (1) 88:7	telephone (4) 201:23;222:23; 232:23;233:3	throughout (1) 111:5
sterilizing (1) 223:16	sufficient (1) 230:2	surgeries (21) 125:12,14;170:22, 23,25;172:11,12; 205:5;206:9;207:18; 209:1,7,7,10;219:3,8, 9;229:18,19;233:1,8	telling (1) 204:17	Thursday (1) 185:10
stick (1) 82:9	suffix (2) 206:25;207:2	surgery (16) 170:15,16;205:10, 14;208:21,22,24; 209:6,16,19;219:1, 14,15;228:6;230:1,8	tells (3) 183:9,10;213:5	Thursdays (1) 186:4
still (10) 86:11;87:17;92:16, 20;97:2;122:12; 123:15;124:14,20; 157:21	suggest (2) 76:10;158:7	surgical (1) 228:5	temperatures (1) 224:7	tied (1) 102:12
suggested (1) 154:3	suggests (1) 196:12	Susan (1) 224:21	term (1) 92:3	till (1) 138:19
stip (3) 75:23;76:13;77:1	Suite (44) 111:3,6;128:11,11, 12,12,13,17,20,25; 129:5,15,17,18; 130:8;134:9;168:1, 16,24;169:8;170:12; 171:10,14,23;172:9, 10,14,15;179:9; 182:16,18;183:19; 184:9;185:19; 187:10,21;188:22; 189:2,4;190:20,21, 24;218:17;222:16	sustain (1) 139:8	terminal (1) 212:25	times (6) 125:18;187:17; 202:4;214:7;219:17; 231:9
stipulation (3) 75:16;76:3,24	summary (1) 154:7	Suzanne (12) 131:7;133:23; 177:23;183:14; 189:14;195:13; 203:3,5;204:3,16; 224:19;227:24	terminated (1) 225:18	title (7) 112:5;168:11; 169:5,6,20;184:6; 230:17
stop (3) 97:19,19;118:22	Sunday (2) 159:15;200:21	switch (1) 229:4	terms (18) 78:8,19;80:13; 81:1;84:21;85:7; 94:17;95:3;108:7; 121:9;164:16,17; 203:11;224:23,25; 225:2,16;228:3	titles (3) 84:21,24;85:4
stored (1) 173:20	Supersede (1) 133:3	SWORN (1) 110:13	Tesla (1) 159:15	today (5) 86:25;110:21; 203:24;204:5,6
Street (25) 111:15,16;123:16; 124:5;129:3;137:12, 17;148:16;172:21, 22;178:15,16,17; 180:25;181:21; 185:8,22;186:19; 198:11,14,16,18; 210:7;213:15;220:16	supersedes (1) 133:6	system (21) 126:4;173:3,6,8,10, 14,15,16;174:2,6,24; 175:2,4,6,15,16; 176:2,5,5;208:13; 212:21	test (3) 112:19,21;164:8	together (1) 231:9
strictly (1) 105:14	supervise (1) 131:1	table (2) 118:25;215:5	testified (18) 117:6,11;121:5; 124:10;141:3,20; 162:2;194:20;196:8, 22,24;197:15,23,25; 203:17;205:5; 212:12,20	told (7) 148:3;192:25; 193:1,5,21;204:4,6
strike (3) 125:22,25;214:17	supervised (1) 80:3	T	testify (7) 139:5;196:18,21; 197:2;204:5,7;219:7	tomorrow (1) 86:22
stripe (6) 114:14,17,19,23; 115:7,15	supervises (3) 130:21,24,25	talk (5) 116:1;205:17; 226:6,23;229:5	testifying (2) 113:9;221:22	took (3) 94:14;164:8; 189:20
stub (1) 145:6	supervision (1) 80:20	talking (9) 98:15;107:22; 135:19;152:23; 175:23;190:23;	testimony (7) 101:12;113:19; 116:3;158:16;207:6, 8;219:7	top (14) 113:24;137:10; 140:21;144:15; 146:7;150:16,21,22; 159:6,7,7;195:16,20; 215:9
studying (1) 164:6	supervisor (1) 130:21		testing (1) 205:18	topic (1) 104:10
stuff (3) 127:5;158:13; 223:12	supervisors (2) 80:4;107:25		tests (2) 174:25;213:4	total (1) 221:20
Subject (1) 160:9	supplies (18) 214:19,20;215:2, 24,25;216:13,18,24; 217:7,9,12,15,17,20, 21,24;218:3,5		theory (2) 93:18;97:5	towels (2) 218:5,8
submit (8) 95:10,22;109:25; 111:11,12;134:22; 148:13;149:14	supply (3) 215:13,14;232:25		thinking (1) 188:14	traditional (1) 96:19
submitted (2) 95:11;199:23	support (2) 82:15;99:16			trail (1) 174:9
submitting (1) 95:14				
subpoena (1)				

train (1) 224:18	105:22;106:12,13,21; 142:4,4,11;185:6,7; 187:21;229:9	142:15,21;143:2; 144:1,8,9,18;145:13, 25;146:18,18;149:4, 20;150:1;153:3; 154:6;156:3,20; 157:7,7,17,21;158:5, 21;159:10,11,14; 160:7,24,24;162:9; 196:12;226:16	upon (2) 94:15;108:18	210:17
training (4) 131:22;132:10,11, 13	type (2) 78:16;108:6		UPS (2) 216:18;217:24	V
trainings (3) 131:24,25;132:8	types (1) 168:9		URO (13) 173:3,5;174:5,8, 24;175:2,4,5,7;201:4, 5,14,16	vacation (6) 181:16;189:9,11, 12,18,20
trains (1) 224:14	Typically (1) 144:24		U-r-ocom (1) 201:15	vacations (1) 82:21
transfer (1) 147:6	U	unions (1) 83:6	urologist (2) 163:14,16	vaccinations (2) 112:23,25
transit (1) 145:3	U-1 (1) 157:13	union's (34) 73:4,19;80:9; 84:15;93:8;96:17; 106:22;114:3; 115:18;117:19; 120:2,4;132:19; 134:1;135:7,8;136:5; 142:14;143:9; 144:10;145:15; 146:1;147:15;149:5; 150:3;154:5,9;156:4, 22;157:19;158:22; 160:8,25;162:10	urologists (1) 163:25	vendor (3) 175:5;233:13,14
transplant (1) 207:4	U-3 (4) 199:17,19,22; 200:3	unit (67) 78:5,12,12,21,25; 80:10,11;81:11,15, 18;83:1,4,7,10,17,19, 24;85:15,19,21,22; 86:2,13,19;87:13; 88:8;91:17,24;92:4,6, 7,11,21,23;93:1,1,3, 16,24;94:2,10,12; 96:16,18,19;97:7; 98:9,11,11,17;99:1, 20;102:5;103:12,19, 20;104:1;105:5,13, 18;106:4,12,21; 107:22;109:16; 179:18;180:6	urology (133) 72:16,20,22;73:7; 77:17;78:2,3,7;79:2, 5,23,24;80:3,3,5,8; 81:3;82:10,11,18,23, 24;83:1;87:23;91:23; 92:11;94:10;97:22, 25;100:9,10,11; 101:5;103:13,14; 106:5;109:5,14; 110:24;111:2,4,4,9; 112:18;114:9; 116:18,19,20,23; 120:25;121:4,16,18, 19,22;122:1,5,8,14, 18,22;124:9;128:1, 16;129:9;132:5,6; 136:10;162:25; 163:2,8,22;164:10, 21;168:2,14;169:1,8; 173:8,13,25;175:17, 23;176:14,14; 177:22;178:8;179:9, 19;183:5;186:15,15; 190:7,9,14,15,18,19; 200:7,11;201:2; 202:22;204:8; 209:18;210:3,9,11, 20;211:2,14;213:10; 214:11,18;217:9; 218:10,14,17;220:4, 8,8,14,18,21,23; 221:2,4,14;223:7,14; 228:18;233:19,23,25	vendors (2) 232:23,25
travel (1) 224:15	U-4 (1) 199:5			verification (7) 149:12;150:9; 151:11,14;155:9; 198:25;199:4
tread (1) 197:9	U-5 (1) 191:19			verify (1) 125:14
treat (2) 80:19;90:23	U-6 (3) 195:4,5,14			versus (3) 78:6;122:1;209:2
treatment (2) 159:17,17	U-7 (1) 148:8			vertical (1) 115:7
triage (1) 102:9	U-8 (3) 197:5,14,16			view (2) 102:25;105:15
trials (1) 187:19	U-9 (2) 196:11,14			violating (1) 159:15
tried (1) 226:15	Uh (1) 118:8			violation (1) 159:25
trouble (2) 224:18;225:4	Under (15) 79:17;80:19;83:2; 84:9;93:13,18;95:8; 102:25;103:20; 105:10;107:3; 118:25;119:7; 150:16;159:7			visit (5) 101:17;174:8,25; 210:5;213:14
true (9) 103:22,23;147:9; 149:18;186:23; 196:8;220:3;221:1; 223:22	undergo (2) 112:19,23	United (1) 72:12		visited (1) 160:20
truly (1) 96:16	understandings (1) 91:21	units (15) 83:4,5;97:13;98:8, 20,23;100:6;103:3; 104:12;105:7,8,9,12; 106:13;108:12		vital (1) 224:4
truss (1) 209:8	UNIDENTIFIED (2) 115:8;143:14			voided (1) 148:19
trust (1) 131:5	uniform (1) 200:5			voiding (1) 187:19
try (4) 86:21;141:10; 225:5;226:4	uniforms (4) 200:7,9,9,10			Voir (13) 119:18,19;133:18; 137:19,20;138:12; 139:12;140:2;153:4, 5;155:3;161:1,25
trying (15) 91:19;105:12; 138:12;141:24; 143:3;144:21;167:4; 175:17,20;188:20; 203:20;222:2; 226:12,16,16	union (84) 78:20;79:3,6; 80:12;81:6,14,19; 83:2,4,12;84:12;85:5, 11,16;87:11,22;88:3; 93:2,7,13;94:1,19; 96:7,16,25;98:11; 99:22;100:1;103:3, 16,25;105:7,12,21; 106:7,10;107:13,15; 108:5;110:4,9; 113:25;115:13; 117:18;119:15,17; 123:12;132:18; 133:13,25;136:3;	unless (4) 93:23;197:6; 213:16;216:25		Voluntary (1) 99:23
Tuesdays (3) 178:15;185:8; 186:4		unrelated (1) 232:24	Uro's (1) 201:5	vote (4) 94:8;106:10,14; 107:17
tunnel (2) 123:16,25		up (23) 102:12;105:21; 110:11;124:17; 127:4,6,8,9;141:7; 147:3;172:3,4; 203:18;204:21; 206:24,24,25;213:6; 216:3,5,24;222:20; 224:11	use (10) 91:20;96:10; 102:15;126:4;155:1; 175:20;214:19; 218:23;219:1,15	voting (1) 108:7
twice (2) 171:21;184:16		update (1) 132:23	used (3) 176:14;214:8; 217:13	W
two (23) 73:1,2;76:14,15, 19;77:11,16;83:4,6; 88:19;97:6,13;			using (6) 77:21;96:13; 141:10;151:17; 152:17;168:23	W-2 (8) 137:3,5,7,9,14; 141:2;142:12;192:22
			Usually (1)	W-2s (1) 140:14
				W-4 (7)

134:10;135:14,18; 141:2,20;192:22; 193:18 W-4s (2) 134:19;135:3 wage (1) 134:11 Wait (5) 74:3;138:19; 180:14;196:16;207:3 walk (2) 128:8;129:4 wants (4) 78:13;159:22; 197:21;228:12 way (11) 87:5;121:12;132:5; 140:5,7,13;163:3; 168:17;176:17; 210:25;226:17 ways (1) 159:15 wear (4) 114:6;200:5,7,10 webpage (1) 151:9 website (9) 151:4,7,8;201:2,3, 5,14,23;202:4 Wednesday (1) 231:7 Wednesdays (4) 178:15;179:3; 185:7;186:4 week (5) 171:21;181:2; 194:25;214:7;231:21 weeks (1) 189:21 weight (1) 147:13 weights (1) 224:7 welcome (1) 139:7 Wesley (6) 113:3,6,7;116:14; 118:1;132:14 West (43) 78:3;79:25;110:24; 111:1,7;125:1; 160:18;166:6,13,14; 167:6,7,20,24;168:2, 14,24;171:10,14; 172:9,14,18;178:6; 179:9,12,15;180:22; 181:2;186:5,16; 188:22;189:3;202:7; 207:22;210:6,16; 211:2;214:18; 216:24;220:4,19; 222:16;230:24 what's (18)	97:10;118:5,19; 133:4,6;150:16; 161:11,15;166:9; 167:5,10,11;175:8; 176:18;179:25; 201:5;211:5;216:10 whenever (2) 127:16;231:21 When's (2) 166:19;189:20 whereas (1) 72:16 where's (3) 127:21;170:9; 216:4 wherever (1) 171:22 white (2) 115:12;200:10 whole (1) 207:5 who's (9) 142:5;147:14; 164:6,17,17;179:16, 20;195:12;228:8 WILCOX (47) 75:18,23;76:6; 84:7,9,21;85:2,5,10, 18;86:4,15;87:2,9,17, 22;88:12;89:4,11,12, 17,19;90:4,6,9,18; 91:11;92:1;93:7; 94:14;95:19;96:1,6; 107:7,12;108:13,16, 18;109:24;142:15, 20;154:19;159:19, 25;169:12;199:23; 227:13 withdraw (2) 122:25;173:25 withdrawal (1) 109:8 withdrawn (6) 109:8;117:7,7; 122:18,21;159:9 without (3) 83:24;93:10; 105:13 witness (202) 73:4;101:11; 107:11;110:13,17; 111:25;112:6;113:7, 9;114:16,19;115:2; 116:6,22;117:6; 118:7,21;120:22; 121:14,18,23;122:3, 6,9,12;123:22,25; 124:3,18,20;125:6,8; 126:11;127:16,19,23; 128:22,24;129:6; 130:3,11,13,15,17, 19;131:10;133:2,4,7, 9,16;134:21;135:5,	20,22,25;139:1,5; 140:15,18,20,25; 141:4,8,12,19,20,25; 142:1;146:24; 147:18,24;148:2,21; 149:24;152:10,12,25; 153:15,18;154:1; 159:5;161:13,15,18; 162:13,16;163:18; 164:2,20;165:15; 166:10,25;167:3,6, 12;168:17;171:3; 176:19;178:17,19,25; 179:2,13;180:1,10, 13,23;181:3,6,9,12, 16;182:2;183:1,12, 24;184:1,14,16; 185:7,11;188:3,6,22; 190:21,25;193:4,17; 194:10,13,20,23; 195:1,6,8;196:1,7,7, 18;197:1,23;198:6, 15,20,23;200:1; 201:10,12,22;204:22; 206:11;209:14; 211:15,21;213:12; 214:1,3,7;215:2,4,7, 12,15,18,21,24; 216:2,12,16,20; 217:23;219:25; 221:3;222:7;223:2; 224:14,19,22;225:6, 9,11,15,19;227:11, 24;228:7,10,16,18, 23;229:1,6;232:4,6; 233:9,16,18,21,24; 234:1,15 witness' (1) 156:10 witnesses (3) 108:22;109:4; 110:5 Wood (2) 131:7,10 W-o-o-d (1) 131:10 word (7) 77:21;91:20;96:10; 193:17;201:16; 221:11,17 words (4) 102:10,14;143:12; 193:10 work (80) 83:9;86:6;92:11; 94:20;100:4;112:18; 121:18,19;122:21; 123:4;129:15,16; 130:8;151:9;162:1,4; 163:1,9,10,19; 165:13;166:11,16; 167:6,24;168:13; 169:8;170:5;171:7,9,	13;172:8,14;177:25; 178:5;180:22;181:1, 13,21;182:4,16,18; 183:10;184:9;185:1, 19,22;186:14,15,18; 187:10,21,23;188:1, 18;197:15;200:5,11, 16;203:5,10,12,24; 204:8;209:12;211:1, 13,14;213:8;218:13, 18,20;221:23; 222:17;224:12,13; 225:1;226:18; 230:24;231:1 worked (8) 163:21;164:25; 165:3,15;172:18,20, 23;199:1 worker (1) 91:13 Workers (9) 72:12;86:15,16,18; 87:7,21;91:9;92:20, 24 working (20) 82:18;111:9;114:9; 121:4,21,25;122:1, 22;152:10;170:15; 171:25;179:11,12; 184:11;197:14; 198:10,13,15,18; 216:23 workplace (1) 226:17 works (11) 132:7;168:1;172:2; 179:9,14,14;180:25; 183:18;185:6; 202:21;210:18 world (1) 207:5 worthy (1) 104:3 wound (7) 72:17,20;77:17; 103:10;109:10,11,13 write (3) 95:7;102:16; 189:12 written (1) 152:18 wrong (2) 184:19;225:3 wrote (1) 152:13	174:10 x-rays (1) 129:12 Y Yanke (5) 130:15;172:11; 205:9;208:2;211:23 Y-a-n-k-e (2) 130:15,17 year (16) 133:15;140:19,24; 152:21;177:16; 189:18,19,20;191:3, 8,9,12;202:12,12,14, 14 years (12) 113:13;151:15; 163:18;165:1,6,7; 177:10,14;194:17; 201:10,11,12 yellow (3) 114:23;115:7,15 yesterday (14) 74:13,13,23;75:23; 76:15;77:11,13; 85:14;88:4;93:10; 94:15;98:15;110:22; 204:7 York (113) 72:4,5,10;75:8; 77:24,25;78:4,23; 79:1,6,6,21;80:1,18; 81:3;84:13;85:9,15, 20;86:2,6,10;88:2; 91:8,24;93:16,16,17, 20,22,24;94:16,19; 98:17,19,21,22; 99:17;100:23;101:3; 106:23,24;108:3,11; 110:1;111:7,19; 112:22;113:1,12,13; 116:14;118:22; 119:24;124:9; 126:13,14;127:1,12, 14,23;129:25;132:7, 14;137:12,13,16,17; 142:7,11;146:11; 148:12;149:13,15; 151:8;161:18,21; 164:22;165:3,25; 166:17,20,21;167:8; 172:21;176:5; 191:23,25;192:7; 195:18;198:11,14,16; 204:17;205:19; 206:8,13,14,15; 207:4,7;210:3,7,12; 212:12;213:14; 214:2;230:22;233:1, 11,15,19,21 younger (1)
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164:6
Yvonna (3)
180:1,10;184:22

Z

Zoltan (9)
130:13;170:23;
178:15;186:4;
190:16;205:8;208:3;
209:14;211:23

In The Matter Of:
NEW YORK METHODIST MSOB of Kings
County and
1199 SEIU, UNITED HEALTHCARE
WORKERS EAST

Vol. 3
April 07, 2016

Burke Court Reporting, LLC
1044 Route 23, Suite 316
Wayne, NJ 0747
(973) 692-0660

Page 236

BEFORE THE

NATIONAL LABOR RELATIONS BOARD REGION 29

In the Matter of:

NEW YORK METHODIST/MO OF RC-172410 KINGS COUNTY, LLC,

Case No. 29-RC-172398
Employer, 29-RC-172410

and

1199 SEIU, UNITED HEALTHCARE WORKERS EAST,

Petitioner.

The above-entitled matter came on for hearing pursuant to Notice, before ERIN SCHAFFER, Hearing Officer, at the National Labor Relations Board, Region 29, 2 Metrotech Center, Suite 500, Brooklyn, New York 11201, on Thursday, April 7, 2016, at 9:57 a.m.

BURKE COURT REPORTING, LLC
1044 Route 23 North, Suite 206
Wayne, New Jersey 07470

Page 238

I N D E X

1	WITNESS	DIRECT	CROSS	REDIRECT	RECROSS	VOIR DIRE
2						
3						
4						
5	MELINDA FELICIANO	241	282	339	347	248
6			248			
7						

Page 237

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Page 239

1

2 E X H I B I T S

3	EXHIBITS	IDENTIFIED	RECEIVED
4	EMPLOYER'S (MSO):		
5	MSO-3	327	328
6	MSO-4	328	330
7	MSO-5	330	331
8	MSO-6	331	332
9	MSO-7	333	334
10	Union's:		
11	13	240	240
12	14	248	248
13	15	247	247
14	16	248	248
15	17	251	251
16	18	252	252
17	19	254	--
18	20	254	254
19	21	256	256
20	22	256	256
21	23	257	257
22	24	260	260
23	25	261	261
24	26	262	262
25	27	262	262

1			E X H I B I T S
2	EXHIBITS	IDENTIFIED	RECEIVED
3	28	318	318
4	29	344	--
5			
6			

1 HEARING OFFICER SCHAFFER: All right.
2 MR. FRANK: And this was in response to the petition, the
3 29-RC-171603; is that correct?
4 HEARING OFFICER SCHAFFER: That's what it says. That's
5 what it says.
6 (Pause)
7 HEARING OFFICER SCHAFFER: Okay. We'll move on now.
8 next witness.
9 MR. FELSTEINER: Union calls Melinda Feliciano.
10 HEARING OFFICER SCHAFFER: Okay. We'll continue now.
11 raise your right hand?
12 MELINDA FELICIANO, WITNESS, SWORN
13 HEARING OFFICER SCHAFFER: Okay. Please have a seat.
14 Please state and spell your name for the record.
15 THE WITNESS: Melinda Feliciano. M-E-L-I-N-D-A. Last
16 name F-E-L-I-C-I-A-N-O.
17 HEARING OFFICER SCHAFFER: Okay. There goes our next question.
18 some questions. Just try to remember, we're trying to pick you
19 up on that -- that's a microphone --
20 THE WITNESS: Okay.
21 HEARING OFFICER SCHAFFER: -- just speak up when you
22 get a chance.
23 All right. Go ahead, Mr. Felstiner.
24 DIRECT EXAMINATION
25 BY MR. FELSTINER:

1 PROCEEDINGS
2 (Time Noted: 9:57 a.m.)
3 HEARING OFFICER SCHAFFER: (Off: All right, Mr. Wilcox.
4 you wanted to put something on the record?
5 MS. WILCOX: Yes, I wanted to add the employer's statement
6 of position dated March 21st, 2016, which was in the prior
7 case, case number 29-RC-171603, which was --
8 HEARING OFFICER SCHAFFER: (That's the record case, right?
9 MS. WILCOX: This is -- no, that was --
10 HEARING OFFICER SCHAFFER: (Oh, urology, sorry.
11 MS. WILCOX: -- urology.
12 HEARING OFFICER SCHAFFER: Okay.
13 MS. WILCOX: Yes.
14 HEARING OFFICER SCHAFFER: (All right. So let's -- we'll
15 mark that as Union 13. Is there any objection?
16 MS. WILCOX: I would offer it without the handwritten -- I
17 wrote urology at the top and then there's some other little
18 scribbles on it so that the distinguishing -- this is the
19 supplement of the record where the -- there was already the
20 prior petition underlying documents were presented by MSO.
21 HEARING OFFICER SCHAFFER: (Okay. Is there any objection?
22 MR. FRANK: No objection.
23 HEARING OFFICER SCHAFFER: (Okay. Union 13 submitted.
24 evidence.
25 (Union Exhibit No. 13 received)

1 Q Ms. Feliciano, am I pronouncing it?
2 A Yes.
3 Q Am I in the ballpark?
4 A That's correct.
5 Q Correct that you work at One Prospect Park West in the
6 urology facility?
7 A That's correct.
8 Q What is your job title?
9 A Licensed practical nurse.
10 Q How long have you been there?
11 A I've been there -- I'll make six months in May. May 2nd,
12 sorry.
13 Q Do you go by any other titles?
14 A Clinical assistant.
15 MR. FRANK: I'm sorry, I didn't hear that.
16 THE WITNESS: Clinical assistant.
17 BY MR. FELSTINER:
18 Q Can you describe generally your job duties as a clinical
19 assistant or licensed practical nurse?
20 A Sure. I see patients, I assess patients, I get their
21 history, I give medications, I do catheter changes, voiding
22 trials, I help physicians with procedures. I stock up
23 supplies. What else? I do bladder scans. I call patients to
24 confirm their appointments for their procedures, and I give
25 discharge instructions to them. That's about it.

<p style="text-align: right;">Page 244</p> <p>1 Q How did you learn of the availability of a job at that 2 location? 3 A I went on the New York Methodist website. 4 Q And what did you see? 5 A I saw a position for a licensed practical nurse at a 6 urology clinic. 7 Q Did you interview with anybody? 8 A Yes. 9 Q With whom did you interview? 10 A Joanne Kennedy. 11 Q Any others? 12 A After I interviewed with Joanne Kennedy I interviewed with 13 the officer manager, Suzanne Dinnerstein. 14 Q And -- 15 A Oh, that was -- I'm sorry, that was after I got the 16 position. 17 Q Okay. Where was your interview with Ms. Kennedy? 18 A On 9th Street at the human resources department. 19 Q Is that 435 9th Street? 20 A That's correct. 21 Q And where was your interview with Ms. Dinnerstein? 22 A It was at One Prospect Park West. 23 Q Did anybody else participate in interviewing you? 24 A I also met with Dr. Grunberger as well. I'm not sure if 25 it was really an interview, but he spoke with me. I mean I</p>	<p style="text-align: right;">Page 246</p> <p>1 THE WITNESS: Yes. 2 HEARING OFFICER SCHAFFER: <small>So that's --</small> 3 THE WITNESS: At Methodist Employee Health Services. 4 HEARING OFFICER SCHAFFER: <small>Any objection?</small> 5 Health Services across the street from the hospital. 6 THE WITNESS: Right. 7 HEARING OFFICER SCHAFFER: <small>Any objection?</small> 8 Union 14. 9 BY MR. FELSTINER: 10 Q Ms. Feliciano, have you had a chance to look at it? 11 A Uh-huh. 12 Q Do you recognize this document? 13 A Yes. 14 Q What is it? 15 A It's a copy of my drug screening. 16 MR. FELSTINER: <small>The union offers this document as Union</small> 17 14. 18 HEARING OFFICER SCHAFFER: <small>Any objection?</small> 19 MR. FRANK: No objection. 20 BY MR. FELSTINER: 21 Q Ms. Feliciano, did you have to receive any vaccinations 22 prior to beginning employment at One Prospect Park West? 23 A Not a vaccination, I had a quantiferona test done. A 24 blood test. 25 Q A blood test?</p>
<p style="text-align: right;">Page 245</p> <p>1 mainly just interviewed with Suzanne. It wasn't really an 2 interview with them. 3 Q What did you talk about? 4 A What did he talk about? 5 Q What did the -- yes, what -- 6 A She just -- 7 MR. FRANK: I'm sorry, which -- 8 BY MR. FELSTINER: 9 Q I'm sorry, what did you talk about with Dr. Grunberger? 10 You were saying it wasn't really an interview, I just wanted to 11 understand what you -- 12 A Well I introduced myself to him and, you know, he asked me 13 questions like -- well I'm a new nurse out of school, so you 14 know, we talked about that, and he just talked to me about -- I 15 don't really remember exactly what we talked about. It was 16 very short, very brief actually, so. 17 Q Did you have to undergo a drug test prior to? 18 A Yes. 19 Q And where did you take it? 20 A I had it done on 6th Street across the street from the 21 hospital at the Employee Health Services. 22 Q I'm going to show you a document. 23 HEARING OFFICER SCHAFFER: <small>Any objection?</small> 24 said so you got it done at 6th Street across the street from 25 the hospital at Employee Health Services?</p>	<p style="text-align: right;">Page 247</p> <p>1 A Yes. 2 Q Thank you for clarifying. I was going to have to ask. 3 And where was that performed? 4 A That was also at Employee Health Services. 5 Q I'm going to show you a document. 6 (Pause) 7 Q Take a look at that. Do you recognize it? 8 A Oh, I'm sorry, yes. This is my flu vaccine. I did 9 receive this vaccine at Employee Health Services. 10 Q Flu vaccine. Employee Health Services at which -- 11 A At New York Methodist. 12 MR. FELSTINER: <small>Union moves to admit this document as 15.</small> 13 MR. FRANK: No objection. 14 HEARING OFFICER SCHAFFER: <small>Any objection?</small> 15 redaction of the date of birth for this document, but we're 16 going to move it into evidence. 17 MR. FELSTINER: <small>Madam hearing officer, the date of birth</small> 18 may be on the -- 19 HEARING OFFICER SCHAFFER: <small>I didn't --</small> 20 MR. FELSTINER: <small>-- previous Union 14 as well. I got the</small> 21 social security, but I -- the date of birth may be at the 22 bottom, and I want to make sure that that's redacted if that's 23 also redactable. 24 HEARING OFFICER SCHAFFER: <small>Any objection?</small> 25 MR. FELSTINER: If you can read it.</p>

Page 248	Page 250
<p>1 MR. FRANK: I don't see it on that document. 2 HEARING OFFICER SCHAFFER: <small>I think it's on the bottom</small> 3 where it's step five completed by donor, it's the bottom right. 4 It's hard to read. 5 MR. FRANK: If you want to substitute redacted no problem. 6 HEARING OFFICER SCHAFFER: <small>Okay. The document is</small> 7 document is put into evidence. 8 (Union Exhibit No. 15 received) 9 BY MR. FELSTINER: 10 Q Ms. Feliciano, did you attend an orientation prior to 11 beginning employment at One Prospect Park West? 12 A Yes, I did. 13 Q I'm going to show you a document. 14 (Pause) 15 Q Do you recognize this document? 16 A Yes. 17 Q And what is it? 18 A This is a paper stating that I had to attend two 19 orientations. One at 9th Street and one at the main hospital. 20 Q The one at -- I'm looking in the middle here it says 21 report to HR conference room 435 9th Street. The date listed 22 as November 2nd, 2015. Do you see that? 23 A Yes. 24 Q Did you attend an orientation on November 2nd, 2015? 25 A Yes, I did.</p>	<p>1 other employees present? 2 A Yes, there was. 3 Q Roughly how many? 4 A I want to say like around somewhere between 12 and 15. 5 Q Were those employees employees of Methodist Hospital or 6 the urology practice? 7 A They were -- 8 MR. FRANK: Objection, unless there's a foundation she 9 knows. 10 BY MR. FELSTINER: 11 Q Yes, if you know. 12 HEARING OFFICER SCHAFFER: <small>Okay. I think you would</small> 13 a step back and ask if they were at the urology -- working at 14 the urology department, but -- and then maybe what other 15 departments if -- 16 MR. FELSTINER: Sure. 17 HEARING OFFICER SCHAFFER: <small>Okay. I think I should ask her if</small> 18 BY MR. FELSTINER: 19 Q Were any -- did any of them go on to work at the urology 20 practice with you? 21 A No. 22 HEARING OFFICER SCHAFFER: <small>Do you know where they</small> 23 them -- 24 THE WITNESS: Yeah. 25 HEARING OFFICER SCHAFFER: <small>Okay. I'm going to ask her</small></p>
Page 249	Page 251
<p>1 Q Was it at the HR conference room -- 2 A Yes. 3 Q -- 435 9th Avenue and 7th Avenue, 2nd floor? 4 A Yes, it was. 5 Q Did you attend the HR orientation on November 11th? 6 A I did not attend that one. 7 MR. FELSTINER: <small>The union moves -- the union moves to</small> 8 admit this document as Union 16 I guess. 9 HEARING OFFICER SCHAFFER: <small>Any objection?</small> 10 MR. FRANK: Voir dire. 11 VOIR DIRE EXAMINATION 12 BY MR. FRANK: 13 Q Looking at the bottom of the document it says extension 14 6404. Is that Ms. Kennedy's extension? 15 HEARING OFFICER SCHAFFER: <small>Do you know?</small> 16 THE WITNESS: I do not know that. 17 MR. FRANK: No objection. 18 HEARING OFFICER SCHAFFER: <small>Okay. Union Exhibit</small> 19 (Union Exhibit No. 16 received) 20 HEARING OFFICER SCHAFFER: <small>Do you know if that's</small> 21 the record, Union 14 is also received. 22 (Union Exhibit No. 14 received) 23 DIRECT EXAMINATION, CONTD. 24 BY MR. FELSTINER: 25 Q At the orientation on November 2nd, 2015, were there any</p>	<p>1 THE WITNESS: Yes. 2 HEARING OFFICER SCHAFFER: <small>Okay. Where?</small> 3 THE WITNESS: There were -- there was a security guard 4 there I remember. There was a registered nurse that was 5 working at Methodist Hospital. There was clerical staff that 6 was working at Methodist Hospital. 7 HEARING OFFICER SCHAFFER: <small>Do you know if that's</small> 8 there that were going to work at One Prospect Park West? 9 THE WITNESS: No one besides me. 10 HEARING OFFICER SCHAFFER: Okay. 11 BY MR. FELSTINER: 12 Q Okay. Did you receive any materials during that 13 orientation? 14 A Yes. 15 Q I'm going show you some documents. 16 (Pause) 17 HEARING OFFICER SCHAFFER: <small>Okay. Do you know where</small> 18 as Union Exhibit 17. 19 BY MR. FELSTINER: 20 Q Do you recognize this document? 21 A Yes, I do. 22 Q What is it? 23 A It's an employee information guide from New York Methodist 24 Hospital from the orientation. 25 Q Did you receive it during the orientation?</p>

Page 252	Page 254
<p>1 A Yes.</p> <p>2 Q Did you observe any other employees receiving this</p> <p>3 document?</p> <p>4 A Everyone received the document.</p> <p>5 HEARING OFFICER SCHAFFER: <small>Speak up just a little bit.</small></p> <p>6 THE WITNESS: Sure. Everyone received the document.</p> <p>7 MR. FELSTINER: Union moves to admit this document as</p> <p>8 Union Exhibit 17.</p> <p>9 HEARING OFFICER SCHAFFER: <small>Any objection?</small></p> <p>10 MR. FRANK: No objection.</p> <p>11 HEARING OFFICER SCHAFFER: <small>Okay, thank you very much.</small></p> <p>12 evidence.</p> <p>13 (Union Exhibit No. 17 received)</p> <p>14 (Pause)</p> <p>15 BY MR. FELSTINER:</p> <p>16 Q Do you recognize this document?</p> <p>17 A Yes, I do.</p> <p>18 Q What is it?</p> <p>19 A It's instructions to access your paychecks and W-2 forms.</p> <p>20 Q Look on the first page on the left-hand side.</p> <p>21 A Uh-huh.</p> <p>22 Q It says employee resources. Do you see that?</p> <p>23 A Yes.</p> <p>24 Q And underneath NYM internet?</p> <p>25 A Uh-huh.</p>	<p>1 A I did.</p> <p>2 Q I'm going to show you another document.</p> <p>3 (Pause)</p> <p>4 HEARING OFFICER SCHAFFER: <small>Well, please, do that.</small></p> <p>5 give you two? No. No, that's fine.</p> <p>6 THE WITNESS: Oh, I do have it.</p> <p>7 BY MR. FELSTINER:</p> <p>8 Q So you have two?</p> <p>9 A Yes.</p> <p>10 (Pause)</p> <p>11 HEARING OFFICER SCHAFFER: <small>Thank you, Mr. Felstiner.</small></p> <p>12 MR. FELSTINER: Yes. I just wanted to make sure you had</p> <p>13 an opportunity to review it.</p> <p>14 THE WITNESS: Yes.</p> <p>15 BY MR. FELSTINER:</p> <p>16 Q Do you recognize this document?</p> <p>17 A Yes.</p> <p>18 Q What is it?</p> <p>19 A I received this document during orientation. This is</p> <p>20 access to email.</p> <p>21 Q Do you have an -- sorry, looking at the top -- strike</p> <p>22 that.</p> <p>23 Looking at the top underneath the date and the from line</p> <p>24 it says subject NYP email address.</p> <p>25 A Uh-huh.</p>
Page 253	Page 255
<p>1 Q Have you ever accessed the NYM internet?</p> <p>2 A I'm not sure if I have. I have accessed this website</p> <p>3 though to get my -- to get my W-2 form.</p> <p>4 HEARING OFFICER SCHAFFER: <small>What website?</small></p> <p>5 THE WITNESS: This one right here. PortalADP.com.</p> <p>6 HEARING OFFICER SCHAFFER: <small>PortalADP.com?</small></p> <p>7 THE WITNESS: Yeah.</p> <p>8 HEARING OFFICER SCHAFFER: <small>Okay, thank you very much.</small></p> <p>9 at page 3 of the document.</p> <p>10 BY MR. FELSTINER:</p> <p>11 Q Have you ever accessed the -- what's listed on the first</p> <p>12 page as the HR web page? Underneath it says benefit</p> <p>13 information, et cetera?</p> <p>14 A I'm honestly not sure.</p> <p>15 MR. FELSTINER: Union moves to admit this as --</p> <p>16 HEARING OFFICER SCHAFFER: <small>Union 18.</small></p> <p>17 MR. FELSTINER: -- 18. Yeah.</p> <p>18 HEARING OFFICER SCHAFFER: <small>Any objection?</small></p> <p>19 MR. FRANK: No objection.</p> <p>20 HEARING OFFICER SCHAFFER: <small>Okay, thank you very much.</small></p> <p>21 evidence.</p> <p>22 (Union Exhibit No. 18 received)</p> <p>23 BY MR. FELSTINER:</p> <p>24 Q I'm not sure if I asked this. But did you receive this</p> <p>25 document during your orientation?</p>	<p>1 Q Do you have an NYP email address?</p> <p>2 A Yes, I do.</p> <p>3 Q You used it in the course of your work?</p> <p>4 A I set it up but I don't really use it.</p> <p>5 Q When you say you set it up, if you look an page 2 of this</p> <p>6 exhibit it said email activation directions.</p> <p>7 A Uh-huh.</p> <p>8 Q Did you follow these instructions to set up your email?</p> <p>9 A Yes, I did.</p> <p>10 MR. FELSTINER: Union offers this as Union 19.</p> <p>11 MR. FRANK: No objection.</p> <p>12 (Pause)</p> <p>13 BY MR. FELSTINER:</p> <p>14 Q Do you recognize this document?</p> <p>15 A Yes.</p> <p>16 Q What is it?</p> <p>17 A I received this in the packet during orientation. It's a</p> <p>18 checklist to prepare for an emergency.</p> <p>19 MR. FELSTINER: Union offers this exhibit as Union 20.</p> <p>20 MR. FRANK: No objection.</p> <p>21 HEARING OFFICER SCHAFFER: <small>Okay, thank you very much.</small></p> <p>22 evidence.</p> <p>23 (Union Exhibit No. 20 received)</p> <p>24 (Pause)</p> <p>25 BY MR. FELSTINER:</p>

<p style="text-align: right;">Page 256</p> <p>1 Q Do you recognize this document?</p> <p>2 A Yes.</p> <p>3 Q What is it?</p> <p>4 A I received this during orientation. It's a religious accommodation policy and procedure booklet.</p> <p>6 Q If you look on the first page is that your signature at the bottom?</p> <p>8 A Yes, it is.</p> <p>9 MR. FELSTINER: Union offers this as Union 21.</p> <p>10 HEARING OFFICER SCHAFFER: <small>Union 21 is admitted</small></p> <p>11 when you went to orientation at the hospital?</p> <p>12 THE WITNESS: That's correct.</p> <p>13 HEARING OFFICER SCHAFFER: <small>Okay. Any objection?</small></p> <p>14 MR. FRANK: No objection.</p> <p>15 HEARING OFFICER SCHAFFER: <small>Any objection?</small></p> <p>16 the whole time? How did you -- how did you get -- did you have</p> <p>17 a copy -- did they give you a copy of it after you signed it?</p> <p>18 THE WITNESS: I think they give you -- if I'm not mistaken</p> <p>19 I think it's two copies. You keep one and they --</p> <p>20 HEARING OFFICER SCHAFFER: Okay.</p> <p>21 THE WITNESS: -- keep the other.</p> <p>22 HEARING OFFICER SCHAFFER: <small>Okay. Any objection?</small></p> <p>23 this like at home?</p> <p>24 THE WITNESS: Yeah.</p> <p>25 HEARING OFFICER SCHAFFER: <small>Any objection?</small></p>	<p style="text-align: right;">Page 258</p> <p>1 MR. FELSTINER: Union moves to admit this as Union 23, if</p> <p>2 I'm still doing the math correctly.</p> <p>3 HEARING OFFICER SCHAFFER: <small>Union 23. Any objection?</small></p> <p>4 MR. FRANK: No objection.</p> <p>5 HEARING OFFICER SCHAFFER: <small>Okay. It is admitted.</small></p> <p>6 evidence.</p> <p>7 (Union Exhibit No. 23 received)</p> <p>8 BY MR. FELSTINER:</p> <p>9 Q Did you -- I can't remember if I asked. Did you receive</p> <p>10 this during the orientation in November?</p> <p>11 A I did, yes.</p> <p>12 Q Okay. Thank you.</p> <p>13 (Pause)</p> <p>14 Q Do you recognize this document?</p> <p>15 A Yes, I do.</p> <p>16 Q What is it?</p> <p>17 A I received this also the day of orientation. It has</p> <p>18 information on fire safety, information on chemicals, and codes</p> <p>19 that they call in the hospital.</p> <p>20 Q Do you see some handwritten additions on the first page?</p> <p>21 A Yes.</p> <p>22 Q Did you make those?</p> <p>23 A Yes, I did.</p> <p>24 Q Was the material on the first page covered during your</p> <p>25 orientation?</p>
<p style="text-align: right;">Page 257</p> <p>1 deal.</p> <p>2 All right. Union 21 is admitted.</p> <p>3 (Union Exhibit No. 21 received)</p> <p>4 BY MR. FELSTINER:</p> <p>5 Q I'm going to show you another document.</p> <p>6 (Pause)</p> <p>7 Q Do you recognize this document?</p> <p>8 A Yes, I do.</p> <p>9 Q What is it?</p> <p>10 A This is a thing that explains about the credit union. I</p> <p>11 received this the day of orientation.</p> <p>12 MR. FELSTINER: The union offers this as Union 22.</p> <p>13 HEARING OFFICER SCHAFFER: <small>Any objection?</small></p> <p>14 MR. FRANK: No objection.</p> <p>15 HEARING OFFICER SCHAFFER: <small>Any objection?</small></p> <p>16 into evidence.</p> <p>17 (Union Exhibit No. 22 received)</p> <p>18 BY MR. FELSTINER:</p> <p>19 Q Show you some more documents.</p> <p>20 (Pause)</p> <p>21 Q Do you recognize this document?</p> <p>22 A Yes, I do.</p> <p>23 Q What is it?</p> <p>24 A This was also given to me the day of orientation. It's an</p> <p>25 employee rights packet.</p>	<p style="text-align: right;">Page 259</p> <p>1 A Yes, it was.</p> <p>2 Q Did you make these notations during your orientation?</p> <p>3 A Yes, I did.</p> <p>4 Q Do you know who Stephen Herman is? The name that's</p> <p>5 written at the bottom?</p> <p>6 A That was the person who was giving the information on the</p> <p>7 fire safety stuff.</p> <p>8 Q If you look at page -- I believe it's page 6 of this</p> <p>9 exhibit.</p> <p>10 HEARING OFFICER SCHAFFER: <small>Any objection?</small></p> <p>11 the topic?</p> <p>12 MR. FELSTINER: Oh, the topic says, OSHA revised, its</p> <p>13 hazard communication standards.</p> <p>14 HEARING OFFICER SCHAFFER: Okay.</p> <p>15 MR. FELSTINER: And I got six. I think that's right.</p> <p>16 BY MR. FELSTINER:</p> <p>17 Q Do you see a handwritten notation at the bottom?</p> <p>18 A Yes.</p> <p>19 Q Is that your handwriting?</p> <p>20 A Yes, it is.</p> <p>21 Q Did you make this notation during the orientation?</p> <p>22 A Yes, I did.</p> <p>23 Q Was the material described in this document covered during</p> <p>24 the orientation?</p> <p>25 A Yes, it was.</p>

<p style="text-align: right;">Page 260</p> <p>1 Q If you could turn to the next page, which I believe is</p> <p>2 page 7 of the exhibit, at the top it says, hazard communication</p> <p>3 standard pictogram.</p> <p>4 A Uh-huh.</p> <p>5 Q Do you see the handwriting notation on that page?</p> <p>6 A Yes, I do.</p> <p>7 Q Is that your handwriting?</p> <p>8 A Yes, it is.</p> <p>9 Q Did you make this notation during the orientation?</p> <p>10 A Yes, I did.</p> <p>11 Q Was the material on this page covered during the</p> <p>12 orientation?</p> <p>13 A Yes, it was.</p> <p>14 Q Go to I believe it's page 11 it begins, directions for</p> <p>15 accessing blood borne pathogens. It's the last page of the</p> <p>16 exhibit as well if that helps you.</p> <p>17 A Yes.</p> <p>18 Q Do you see the handwritten mark?</p> <p>19 A Yes.</p> <p>20 Q Did you make that mark?</p> <p>21 A I don't think I made that -- oh, I might have. I'm</p> <p>22 honestly not sure.</p> <p>23 MR. FELSTINER: Union moves to admit this as Union 24.</p> <p>24 HEARING OFFICER SCHAFFER: Any objection?</p> <p>25 MR. FRANK: No objection.</p>	<p style="text-align: right;">Page 262</p> <p>1 everything.</p> <p>2 MR. FELSTINER: Union moves to admit this document as</p> <p>3 Union 25.</p> <p>4 MR. FRANK: No objection.</p> <p>5 HEARING OFFICER SCHAFFER: Union 25 is admitted</p> <p>6 (Union Exhibit No. 25 received)</p> <p>7 (Pause)</p> <p>8 BY MR. FELSTINER:</p> <p>9 Q Do you recognize this document?</p> <p>10 A Yes, I do.</p> <p>11 Q What is it?</p> <p>12 A This is I guess like a quiz on the information that was</p> <p>13 provided during the orientation.</p> <p>14 Q Is that your name at the top in your handwriting?</p> <p>15 A Yes, it is.</p> <p>16 Q And did you make these markings?</p> <p>17 A Yes, I did.</p> <p>18 Q Oh, I should be more specific. I'm referring to the</p> <p>19 circles around the letters under questions 1 through 5.</p> <p>20 A Yes.</p> <p>21 Q Did you take this quiz during the orientation?</p> <p>22 A Yes, I did.</p> <p>23 MR. FELSTINER: Union moves to admit this as Union 26.</p> <p>24 MR. FRANK: No objection.</p> <p>25 HEARING OFFICER SCHAFFER: Union 26 is admitted</p>
<p style="text-align: right;">Page 261</p> <p>1 HEARING OFFICER SCHAFFER: Okay. It's received as</p> <p>2 evidence. But before you flip off that page I just want to ask</p> <p>3 a question.</p> <p>4 Do you know if you had to do the blood borne pathogen</p> <p>5 online training that's described on the last page? Or do you</p> <p>6 recall doing it?</p> <p>7 THE WITNESS: I don't recall.</p> <p>8 HEARING OFFICER SCHAFFER: Okay. All right. Thank you.</p> <p>9 received.</p> <p>10 (Union Exhibit No. 24 received)</p> <p>11 BY MR. FELSTINER:</p> <p>12 Q Was the rest of the material covered in this document also</p> <p>13 explained during your orientation?</p> <p>14 A I'm sorry, on the last document you gave me?</p> <p>15 Q Yes, Union 24.</p> <p>16 A I believe they covered all the material in this document.</p> <p>17 (Pause)</p> <p>18 Q Do you recognize this document?</p> <p>19 A Yes, I do.</p> <p>20 Q What is it?</p> <p>21 A Charity care financial aid policy and procedure. I</p> <p>22 received it during my orientation.</p> <p>23 Q Do you recall if the material covered in this document was</p> <p>24 reviewed during your orientation?</p> <p>25 A I think it was briefly reviewed. We didn't go over</p>	<p style="text-align: right;">Page 263</p> <p>1 into evidence.</p> <p>2 (Union Exhibit No. 26 received)</p> <p>3 (Pause)</p> <p>4 BY MR. FELSTINER:</p> <p>5 Q Do you recognize this document?</p> <p>6 A Yes, I do.</p> <p>7 Q What is it?</p> <p>8 A This is a department orientation checklist. I received</p> <p>9 this the day of orientation.</p> <p>10 Q Is that handwriting at the top, is that yours?</p> <p>11 A Yes, it is.</p> <p>12 Q Did you fill it out on the day of the orientation?</p> <p>13 A Yes, I did.</p> <p>14 MR. FELSTINER: Union moves to admit this as Union 27.</p> <p>15 MR. FRANK: Is there any reason why there are no check</p> <p>16 marks from the document?</p> <p>17 THE WITNESS: Because it was never -- I received it in the</p> <p>18 packet, but it was never enforced. It was never used.</p> <p>19 HEARING OFFICER SCHAFFER: Okay. All right. Thank you.</p> <p>20 THE WITNESS: Uh-huh.</p> <p>21 MR. FRANK: No objection.</p> <p>22 HEARING OFFICER SCHAFFER: Okay. It's received.</p> <p>23 (Union Exhibit No. 27 received)</p> <p>24 BY MR. FELSTINER:</p> <p>25 Q Taking a look at this document, you said it was never --</p>

<p style="text-align: right;">Page 264</p> <p>1 A Enforced, like --</p> <p>2 Q -- enforced?</p> <p>3 A Yeah. We never used it.</p> <p>4 Q Did -- in the first -- so the box halfway down the page</p> <p>5 and the first gray line says, introduction/department tour. Do</p> <p>6 you see that?</p> <p>7 A I'm sorry, can you repeat that again?</p> <p>8 Q Sure. A third of the way down the first page of --</p> <p>9 A I got it.</p> <p>10 Q -- this exhibit it says, introduction/department tour.</p> <p>11 A Yes.</p> <p>12 Q Was a department tour performed when you began at the</p> <p>13 urology facility?</p> <p>14 A The day of -- I'm sorry?</p> <p>15 Q The first day that you began work at the urology center --</p> <p>16 A Yes.</p> <p>17 Q -- at One Prospect Park West, was a tour performed?</p> <p>18 A Yes.</p> <p>19 Q So when you say this wasn't enforced, what do you mean?</p> <p>20 A Well we never went through this checklist and checked off</p> <p>21 -- we never went through this whole thing and checked it off</p> <p>22 and no one ever signed anything. It just was never used.</p> <p>23 Q Okay. Can you describe the doctors who work at the</p> <p>24 urology center at One Prospect Park West, the names of the</p> <p>25 doctors?</p>	<p style="text-align: right;">Page 266</p> <p>1 A I'm sorry always present for the procedure.</p> <p>2 Q Always present?</p> <p>3 A Yes.</p> <p>4 Q You said sometimes you'll assist. What does that mean?</p> <p>5 A So sometimes they'll ask me to do something while they're</p> <p>6 -- just maybe hand them some stuff or maybe hold something</p> <p>7 while they're doing something else. Yeah, or they also takes</p> <p>8 pictures during the procedure so I'll take the pictures for</p> <p>9 them.</p> <p>10 Q And you said you're normally assigned to the procedure</p> <p>11 room. Are you ever assigned to outside the procedure room?</p> <p>12 A Yes.</p> <p>13 Q Where?</p> <p>14 A Well we have the procedure room on one side and then on</p> <p>15 the other side we see new patients and follow-up patients.</p> <p>16 Q Are you -- is that in a particular room?</p> <p>17 A We have four rooms that we see patients in. So usually</p> <p>18 one doctor would be assigned to two rooms, the other doctor is</p> <p>19 assigned to two rooms, and between me and my other coworkers</p> <p>20 we'll split. So usually there'll be about four of us. So two</p> <p>21 of us with work with one doctor, the other two will work with</p> <p>22 the other doctor.</p> <p>23 Q Who are the job titles of the colleagues you just</p> <p>24 mentioned -- what are the job titles? Excuse me.</p> <p>25 A Physician assistant, licensed practical nurse, and medical</p>
<p style="text-align: right;">Page 265</p> <p>1 A Sure. Dr. Ivan Grunberger, Dr. Ivan Collon, Dr. Edward</p> <p>2 Zoltan, and Brent Yanke, Dr. Lauren Schulz.</p> <p>3 Q Are all of them -- did I count five? All five of those</p> <p>4 doctors in the office at the same time?</p> <p>5 A No, they are not. It's usually two doctors a day.</p> <p>6 Different days.</p> <p>7 Q Is it the same combination of doctors on a regular</p> <p>8 schedule?</p> <p>9 A Not always, but usually it's -- it's usually the same, but</p> <p>10 sometimes it changes.</p> <p>11 Q Do you work with the doctors when they're in the facility</p> <p>12 at One Prospect Park West?</p> <p>13 A Yes, I do.</p> <p>14 Q What do you do?</p> <p>15 A I normally work in the procedure room where I assistant</p> <p>16 them with the procedures.</p> <p>17 Q What does that mean, assisting them with the procedures?</p> <p>18 A I set up the procedure room for them, and also I take in</p> <p>19 patients, I explain to the patients what's going to be done. I</p> <p>20 have the patients change, and the patients comes in the room</p> <p>21 and I prep them. And then I get the doctor and then the doctor</p> <p>22 performs the procedure. Sometimes they -- you know, they'll</p> <p>23 have me assist in the procedure, and --</p> <p>24 Q Some -- I'm sorry. Sometimes you're present for the</p> <p>25 procedure?</p>	<p style="text-align: right;">Page 267</p> <p>1 assistant. I'm sorry, and also registered nurse.</p> <p>2 Q Are you informed at the beginning of the day whether</p> <p>3 you'll be in a procedure room or seeing new and follow-up</p> <p>4 patients?</p> <p>5 A I usually know -- usually Monday through Wednesday I'm in</p> <p>6 the procedure room, and then my other coworker, Anna, she</p> <p>7 usually does Thursdays and Fridays.</p> <p>8 Q So what are you doing Thursdays and Fridays?</p> <p>9 A I'll -- I'm on the other side seeing patients.</p> <p>10 Q When you're assigned to the procedure room are you working</p> <p>11 with a particular doctor?</p> <p>12 A No. Whatever two doctors are assigned for that day I work</p> <p>13 with both of them.</p> <p>14 Q Could either of them be performing a procedure?</p> <p>15 A Yes.</p> <p>16 Q And you'd assist either of them?</p> <p>17 A Right.</p> <p>18 Q When you're assigned to new and follow-up patients are you</p> <p>19 working with a particular doctor?</p> <p>20 A Yes.</p> <p>21 Q Who determines which doctor you'll work with?</p> <p>22 A We usually -- usually amongst our self we'll decide who's</p> <p>23 working with what doctor.</p> <p>24 Q When you say amongst our self who are you referring to?</p> <p>25 A Amongst my coworkers, the physician assistants, the other</p>

<p style="text-align: right;">Page 268</p> <p>1 LPN, or medical assistants.</p> <p>2 Q When it's time to take a picture or assist in some other</p> <p>3 way in the procedure who gives you that instruction?</p> <p>4 A The doctor.</p> <p>5 Q When it's time to discharge a patient who gives you the</p> <p>6 instruction to discharge the patient?</p> <p>7 A The doctor.</p> <p>8 Q If the patient is to receive any instructions along side</p> <p>9 the discharge do you already know what those are or does</p> <p>10 somebody have to tell you?</p> <p>11 A I already know what the instructions are.</p> <p>12 Q Have you received any training on discharging patients?</p> <p>13 Let me rephrase that.</p> <p>14 A Yeah.</p> <p>15 Q Have you received any formal training on discharging</p> <p>16 patients?</p> <p>17 A No, I have not.</p> <p>18 Q While you are -- while you've been working an One Prospect</p> <p>19 Park West have you received any training on assisting in</p> <p>20 medical procedures?</p> <p>21 A I was trained by the girls that used to work there but are</p> <p>22 no longer there.</p> <p>23 Q Who were they?</p> <p>24 A They were actually the two medical assistants that worked</p> <p>25 there.</p>	<p style="text-align: right;">Page 270</p> <p>1 Q Did you pass probation?</p> <p>2 A Yes, I did.</p> <p>3 Q Okay. On a daily basis what kind of interaction do you</p> <p>4 have with the clerical staff, if any?</p> <p>5 MR. FRANK: Was that One Prospect Park West?</p> <p>6 MR. FELSTINER: Yes, thank you.</p> <p>7 BY MR. FELSTINER:</p> <p>8 Q At One Prospect Park West on a daily basis what kind of</p> <p>9 interaction do you have with the clerical staff?</p> <p>10 A Well I know when we have procedures scheduled with</p> <p>11 anesthesia I normally go to Maritza, who does the paperwork for</p> <p>12 the procedures, and she'll let me know how many procedures we</p> <p>13 have and then we'll work out a schedule depending on -- there's</p> <p>14 certain doctors that like usually go before -- so there's like</p> <p>15 two doctors and usually we'll schedule one doctor before the</p> <p>16 other so we'll arrange his schedule and we'll pick whatever the</p> <p>17 starting time is. So we actually work -- we collaborate with</p> <p>18 that together.</p> <p>19 I also -- with the front desk sometimes, you know, I'll</p> <p>20 speak to them about whether a patient is there or not or if</p> <p>21 some -- you know, if someone is coming late they'll let me</p> <p>22 know. I can't really think of anything else right now.</p> <p>23 Q Does the office manager, Suzanne Dinnerstein, ever go to</p> <p>24 the New York Methodist Hospital location on 6th Street?</p> <p>25 MR. FRANK: Objection, unless there's a foundation.</p>
<p style="text-align: right;">Page 269</p> <p>1 Q Does the office -- sorry. Who's the office manager? I</p> <p>2 should -- strike that.</p> <p>3 Do you have an office manager?</p> <p>4 A Yes, I do.</p> <p>5 Q Who's the office manager?</p> <p>6 A Suzanne Dinnerstein.</p> <p>7 Q Does Ms. Dinnerstein give you any instructions related to</p> <p>8 the procedures when you're in the procedure room?</p> <p>9 A No, she does not.</p> <p>10 Q Does she assign you to particular doctors?</p> <p>11 A No, she does not.</p> <p>12 Q Has she provided any training in the performance of your</p> <p>13 job as a practical nurse?</p> <p>14 A No, she didn't -- she hasn't.</p> <p>15 Q Have you received a performance evaluation in your almost</p> <p>16 six months?</p> <p>17 A No, I have not.</p> <p>18 Q Were you on probation?</p> <p>19 A Yes.</p> <p>20 Q Did you have any meetings related to probation?</p> <p>21 A Yes, I did.</p> <p>22 Q When was that?</p> <p>23 A It was after my three months.</p> <p>24 Q Who attended those meetings besides yourself?</p> <p>25 A It was Suzanne Dinnerstein and Ivan Grunberger.</p>	<p style="text-align: right;">Page 271</p> <p>1 HEARING OFFICER SCHAFER: <small>If you know.</small></p> <p>2 BY MR. FELSTINER:</p> <p>3 Q If you know.</p> <p>4 A She does, yes.</p> <p>5 Q How do you know?</p> <p>6 A She tells me.</p> <p>7 Q About how often?</p> <p>8 A A couple times a week.</p> <p>9 HEARING OFFICER SCHAFER: _____</p> <p>10 THE WITNESS: I know sometimes she goes there to pick up</p> <p>11 supplies. Sometimes she goes there for meetings.</p> <p>12 BY MR. FELSTINER:</p> <p>13 Q What kind of supplies?</p> <p>14 A Office supplies. Maybe if we don't have like gowns or</p> <p>15 tucks for the blue pads that we use for the patients.</p> <p>16 Sometimes she's been there to pick up like lidocaine jelly.</p> <p>17 Just stuff that we use for the procedures.</p> <p>18 Q That's what I was going ask. The lidocaine jelly, that's</p> <p>19 used in the procedures?</p> <p>20 A Yes.</p> <p>21 Q If a patient needs an x-ray can they receive one on site</p> <p>22 at One Prospect Park West?</p> <p>23 A Yes, they can. We send our patients -- patients who have</p> <p>24 kidney stones we send them across the hall in Suite B for</p> <p>25 x-rays.</p>

Page 272	Page 274
<p>1 Q Have you ever accompanied a patient there?</p> <p>2 A Yes, I have.</p> <p>3 Q Can you just describe what that process is by accompanying</p> <p>4 a patient?</p> <p>5 A Usually there's some paperwork that has to be filled out,</p> <p>6 so we fill out the paperwork and we walk the patient over to</p> <p>7 Suite B, and then we drop off the papers with the x-ray tech</p> <p>8 who's there.</p> <p>9 Q If you know, are the x-ray film processed over there in</p> <p>10 Suite B?</p> <p>11 MR. FRANK: Objection on grounds of relevance.</p> <p>12 HEARING OFFICER SCHAFFER: <small>Mr. Frank, what's the</small></p> <p>13 relevance?</p> <p>14 MR. FELSTINER: <small>Goes to the interrelation of operations</small></p> <p>15 between New York Methodist Hospital and the operations at One</p> <p>16 Prospect Park West. He contends that the patients were seen</p> <p>17 at --</p> <p>18 HEARING OFFICER SCHAFFER: <small>Yes, from what I hear</small></p> <p>19 question, but don't get too far into what the -- I mean into</p> <p>20 stuff about how things are processed. Do you know if they're</p> <p>21 processed right on site?</p> <p>22 THE WITNESS: They are processed on site.</p> <p>23 HEARING OFFICER SCHAFFER: Okay.</p> <p>24 BY MR. FELSTINER:</p> <p>25 Q Do you -- so you said you dropped the paperwork off with</p>	<p>1 HEARING OFFICER SCHAFFER: <small>Okay. That's fine.</small></p> <p>2 BY MR. FELSTINER:</p> <p>3 Q Has -- I'm going to show you a document.</p> <p>4 (Pause)</p> <p>5 HEARING OFFICER SCHAFFER: <small>Can we take a --</small></p> <p>6 MR. FELSTINER: Should we take a recess?</p> <p>7 HEARING OFFICER SCHAFFER: <small>Could you take a five-</small></p> <p>8 minute break?</p> <p>9 MR. FELSTINER: Sure.</p> <p>10 HEARING OFFICER SCHAFFER: Yeah.</p> <p>11 (Recessed at 10:50; reconvened at 11:17 a.m.)</p> <p>12 HEARING OFFICER SCHAFFER: <small>Back on the record.</small></p> <p>13 (Pause)</p> <p>14 BY MR. FELSTINER:</p> <p>15 Q Have you had a chance to review this?</p> <p>16 A Yes.</p> <p>17 Q Do you recognize this document?</p> <p>18 A Yes, I do.</p> <p>19 Q What is it?</p> <p>20 A This was given to me by the office manager, Suzanne.</p> <p>21 Q If you look at the bottom on the right hand -- the bottom</p> <p>22 right-hand side of the first page of this exhibit there's a</p> <p>23 signature and then it says, Suzanne Wood, office manager. Is</p> <p>24 that who you're referring to?</p> <p>25 A Yeah, correct.</p>
Page 273	Page 275
<p>1 the x-ray tech. Do you give it personally?</p> <p>2 A If the x-ray tech is there I give it personally. If not</p> <p>3 there's a box and you can just put it there and then the x-ray</p> <p>4 tech comes and picks it up.</p> <p>5 MR. FELSTINER: Give me just one moment.</p> <p>6 BY MR. FELSTINER:</p> <p>7 Q After the x-ray has been performed do you see the patient</p> <p>8 again?</p> <p>9 A Yes.</p> <p>10 Q What happens?</p> <p>11 A Well the patient comes back to us and the doctor reviews</p> <p>12 the x-ray, and the doctor tells the patient whether they passed</p> <p>13 the stones or not or if they have any stones.</p> <p>14 Q Would the doctors see that on a printout?</p> <p>15 A On the actual --</p> <p>16 Q I may not be using the right term.</p> <p>17 A On the actual x-ray.</p> <p>18 HEARING OFFICER SCHAFFER: <small>Is it the x-ray or film or is it</small></p> <p>19 the x-ray electronic?</p> <p>20 THE WITNESS: I believe it's a film, but I'm not 100</p> <p>21 percent sure.</p> <p>22 HEARING OFFICER SCHAFFER: <small>Is the doctor looking at the</small></p> <p>23 x-ray on a computer screen or are they holding it like up</p> <p>24 against a light box?</p> <p>25 THE WITNESS: I'm not honestly sure.</p>	<p>1 Q Is Suzanne Wood and Suzanne Dinnerstein the same person or</p> <p>2 different people?</p> <p>3 A Same person.</p> <p>4 Q When were these materials given to you?</p> <p>5 A It was about two weeks ago. I'm not sure if it was</p> <p>6 March 17th. It was a little over two weeks maybe.</p> <p>7 HEARING OFFICER SCHAFFER: <small>When was that?</small></p> <p>8 THE WITNESS: I was at One Prospect Park West.</p> <p>9 BY MR. FELSTINER:</p> <p>10 Q Has Ms. Dinnerstein had any other discussions with you</p> <p>11 about the unionization effort?</p> <p>12 MR. FRANK: Objection, relevance.</p> <p>13 MR. FELSTINER: <small>They're -- oh, unless you want to respond,</small></p> <p>14 they're one of the factors that the board considers is common</p> <p>15 or centralized control of labor relations we're establishing.</p> <p>16 HEARING OFFICER SCHAFFER: <small>Right, is that what you're saying?</small></p> <p>17 that Ms. Dinnerstein is a 211?</p> <p>18 MR. FRANK: No.</p> <p>19 MR. FRANK: She's a supervisor.</p> <p>20 HEARING OFFICER SCHAFFER: Okay.</p> <p>21 MR. FELSTINER: This is a communication -- well --</p> <p>22 HEARING OFFICER SCHAFFER: <small>Do you want to respond?</small></p> <p>23 MR. FELSTINER: Certainly.</p> <p>24 This is a communication concerning one of the critical</p> <p>25 labor relations questions, which is the employees effort to</p>

<p style="text-align: right;">Page 276</p> <p>1 unionize in this location, and you can see who it's addressed</p> <p>2 from and who it was given to, so this is participation. We're</p> <p>3 arguing that this is participation by Methodist and MSO to the</p> <p>4 extent it exists in the question in a key labor relations</p> <p>5 matter.</p> <p>6 HEARING OFFICER SCHAFFER: Sure.</p> <p>7 MR. FELSTINER: Which is what the unions will be</p> <p>8 representing. And also what information will be provided to</p> <p>9 union members, which is another factor that the board looks at</p> <p>10 when considering single employer status.</p> <p>11 HEARING OFFICER SCHAFFER: <small>Okay. Just -- I just</small></p> <p>12 remembered. So Wood is -- Suzanne Wood and Suzanne Dinnerstein</p> <p>13 are the same person, right? That's a -- is that correct? I</p> <p>14 think we had testimony about that yesterday.</p> <p>15 MR. FRANK: Yes.</p> <p>16 THE WITNESS: Yes.</p> <p>17 HEARING OFFICER SCHAFFER: Okay.</p> <p>18 MR. FELSTINER: And it is also --</p> <p>19 HEARING OFFICER SCHAFFER: <small>I think I think you have to</small></p> <p>20 connect -- I don't know that this question goes to the</p> <p>21 connection between New York Methodist and MSO. So if you want</p> <p>22 to ask it in a way that draws out that connection like that</p> <p>23 then maybe rephrase the question.</p> <p>24 BY MR. FELSTINER:</p> <p>25 Q All right. Take a look at the bottom of this page. At</p>	<p style="text-align: right;">Page 278</p> <p>1 Brooklyn, New York, 11215-9008?</p> <p>2 MR. FELSTINER: <small>Union moves to admit this exhibit as Union</small></p> <p>3 28.</p> <p>4 HEARING OFFICER SCHAFFER: Okay.</p> <p>5 MR. FRANK: Same objection.</p> <p>6 HEARING OFFICER SCHAFFER: <small>What is the objection?</small></p> <p>7 MR. FRANK: It's not relevant to any issue regarding the</p> <p>8 question concerning representation.</p> <p>9 HEARING OFFICER SCHAFFER: <small>Okay. I'm going to --</small></p> <p>10 MR. FRANK: It's campaign material, it's -- I've always</p> <p>11 understood it it's not admissible in board proceedings.</p> <p>12 MR. FELSTINER: <small>Except when it's specially concerning the</small></p> <p>13 common centralized control labor relations in which case it</p> <p>14 absolutely is.</p> <p>15 HEARING OFFICER SCHAFFER: <small>Right. He wants to see the</small></p> <p>16 document is signed by Jennifer Donovan and Suzanne Wood, and I</p> <p>17 think there's an open question as to who their -- who they work</p> <p>18 for, I want to reserve judgment on whether I'm going admit it</p> <p>19 at this point.</p> <p>20 So it's marked, but I just want to look into it more. But</p> <p>21 I think if Jennifer Donovan -- I think this document -- the</p> <p>22 signatories of this document are relevant to the question in</p> <p>23 this case, I just don't know if we're going to put the whole</p> <p>24 document in or how we may redact it, so.</p> <p>25 MR. FRANK: I would note the petition lists two entities,</p>
<p style="text-align: right;">Page 277</p> <p>1 the signatures do you see the other signatory of this letter?</p> <p>2 A Yes, I do.</p> <p>3 Q And who is that?</p> <p>4 A It's Jennifer Donovan. She's Suzanne's boss.</p> <p>5 Q Have you ever met her?</p> <p>6 A I've seen her once from a distance, but --</p> <p>7 Q Where does she work, if you know?</p> <p>8 MR. FRANK: Objection without a foundation.</p> <p>9 HEARING OFFICER SCHAFFER: <small>What is the foundation?</small></p> <p>10 she works?</p> <p>11 THE WITNESS: I believe she works at New York Methodist</p> <p>12 Hospital. That's what I was told.</p> <p>13 HEARING OFFICER SCHAFFER: <small>What is your basis for that?</small></p> <p>14 office?</p> <p>15 THE WITNESS: I'm sorry to One --</p> <p>16 HEARING OFFICER SCHAFFER: <small>What is your basis for that?</small></p> <p>17 THE WITNESS: Oh, no I've never --</p> <p>18 HEARING OFFICER SCHAFFER: <small>What is your basis for that?</small></p> <p>19 THE WITNESS: No.</p> <p>20 BY MR. FELSTINER:</p> <p>21 Q Take a look at the top of this page at the letterhead. Do</p> <p>22 you see underneath MSO Kings County, do you see the address</p> <p>23 listed?</p> <p>24 A Yes, I do.</p> <p>25 Q What is the address listed 506 6th Street, Box 159009,</p>	<p style="text-align: right;">Page 279</p> <p>1 so I don't know why it would be strange if two entities didn't</p> <p>2 write a list.</p> <p>3 HEARING OFFICER SCHAFFER: <small>What is the foundation?</small></p> <p>4 two entities -- I'm sorry, what does that mean?</p> <p>5 MR. FRANK: I see the two signatures on the document.</p> <p>6 HEARING OFFICER SCHAFFER: <small>What are you --</small></p> <p>7 MR. FRANK: I'm objecting to the document, because I</p> <p>8 believe under board precedent this is not an admissible</p> <p>9 document in a representation.</p> <p>10 HEARING OFFICER SCHAFFER: <small>What is the foundation?</small></p> <p>11 Donovan works for New York Methodist?</p> <p>12 MR. FRANK: I didn't say that.</p> <p>13 HEARING OFFICER SCHAFFER: <small>What is the foundation?</small></p> <p>14 two entities signed the document. You mean entities or</p> <p>15 persons?</p> <p>16 MR. FRANK: Two persons. I'm sorry, I meant persons.</p> <p>17 HEARING OFFICER SCHAFFER: <small>What is the foundation?</small></p> <p>18 wanted to clarify your comment.</p> <p>19 Okay. I'm going to reserve judgment on whether we're</p> <p>20 going to admit it, but -- and I'll get back to you.</p> <p>21 BY MR. FELSTINER:</p> <p>22 Q Has Ms. Dinnerstein discussed the immunization efforts</p> <p>23 with you at any point?</p> <p>24 MR. FRANK: I'm sorry, could you repeat that, please.</p> <p>25 BY MR. FELSTINER:</p>

Page 280	Page 282
<p>1 Q Has Ms. Dinnerstein, the office manager, discussed the 2 immunization issues with you at any point? 3 MR. FRANK: Objection. How is that relevant to the issues 4 before the Court? 5 HEARING OFFICER SCHAFFER: <small>Well -- go ahead.</small> 6 MR. FELSTINER: May I respond? 7 HEARING OFFICER SCHAFFER: Sure. 8 MR. FELSTINER: <small>Counsel has represented that MSO performs</small> 9 all of its own labor relations independently of the hospital, 10 that they're not connected, they do not have centralized labor 11 relations. If that's is actually true then this -- or in order 12 to just prove or disprove that representation we need to know 13 who is communicating with the workers about the immunization 14 effort and who's determining what kind of information they 15 receive and what -- you know, what they're saying. What 16 representations they're making about who is going to make the 17 decisions regarding these core issues. 18 HEARING OFFICER SCHAFFER: <small>Okay. Are you going to offer</small> 19 the question. 20 MR. FRANK: Note the exception, because I believe that 21 it's established board of law. 22 HEARING OFFICER SCHAFFER: <small>Yes, I'm going to ask you</small> 23 what she said. So answer the question. This -- 24 BY MR. FELSTINER: 25 Q At this point the question is just has Ms. Dinnerstein</p>	<p>1 MR. FRANK: Okay. Understood. 2 THE WITNESS: It was Dr. Grunberger, Suzanne Dinnerstein, 3 and the rest of the staff, excluding the temps and the other 4 doctors. 5 (Pause) 6 BY MR. FELSTINER: 7 Q During this meeting was any reference made to New York 8 Methodist Hospital? 9 HEARING OFFICER SCHAFFER: <small>Well, I'm going to --</small> 10 MR. FELSTINER: Not offered -- 11 HEARING OFFICER SCHAFFER: <small>Yes, I'm going to ask you</small> 12 to open the door to the contents of the meeting at this time. 13 MR. FELSTINER: Okay. 14 HEARING OFFICER SCHAFFER: So -- 15 MR. FELSTINER: If anybody -- 16 HEARING OFFICER SCHAFFER: <small>Okay, I think -- because</small> 17 MR. FELSTINER: -- her supervisors or managers made 18 reference to New York Methodist in resolution or involved in 19 the resolution of this dispute then that would indicate -- it's 20 not offered for the truth of the matter asserted, just that a 21 statement was made, that statement made concerning New York 22 Methodist Hospital's involvement in potential communications or 23 negotiations or resolution of this issue. 24 HEARING OFFICER SCHAFFER: <small>Okay, I think -- because</small> 25 there is some reference that I've seen in Union 28 to -- like</p>
Page 281	Page 283
<p>1 discussed this with you at any point? 2 A She gave us another document other than this one, but she 3 hasn't really said much about it. 4 Q And when was that? 5 A That was a few days after this document. 6 Q Was anybody else present? Strike that. 7 Did she give it to you individually or distribute it to 8 the whole group? 9 A No, actually it was put on the bulletin board at work. 10 Q Did you ever have a meeting? 11 A Yes, we did. 12 Q Who attended? 13 MR. FRANK: Objection. Oh, withdrawn. 14 HEARING OFFICER SCHAFFER: <small>Yes, I'm going to ask you</small> 15 withdraw. 16 MR. FRANK: Okay. We're getting into campaigning stuff 17 and I'm going to ask about cards. 18 HEARING OFFICER SCHAFFER: <small>Well, I'm going to ask you</small> 19 limiting -- I am being -- I'm very carefully -- 20 MR. FRANK: I want to know if the union cards also talked 21 about just Methodist Hospital or if they talked about the MSO 22 and, you know, we're opening the door I think I'm entitled. 23 HEARING OFFICER SCHAFFER: <small>Yes, I'm going to ask you</small> 24 to the questions being asked and the answers being given, and I 25 am limiting it to who was present, not what was said.</p>	<p>1 in terms of identifying -- I'm going to reserve -- I don't -- I 2 will make a ruling on this. I don't want to go into the 3 contents of the meeting, so I'm -- 4 MR. FELSTINER: In that case the union has no further 5 questions. 6 HEARING OFFICER SCHAFFER: Okay. 7 (Pause) 8 HEARING OFFICER SCHAFFER: <small>Yes, I'm going to ask you</small> 9 (Recessed at 11:30 a.m.; reconvened at 11:31 p.m.) 10 HEARING OFFICER SCHAFFER: <small>Back on the record.</small> 11 CROSS-EXAMINATION 12 BY MR. FRANK: 13 Q Did you apply for a position at MSO of Kings County? 14 A I applied for a position at New York Methodist Hospital. 15 Q Did the application that you filed say -- was it an 16 application for employment? 17 A Yes, it was. 18 Q And on the top of that application for employment did it 19 say MSO of Kings County? 20 A I'm not sure. 21 Q Do you have a copy of your employment application? 22 A I do not. 23 HEARING OFFICER SCHAFFER: <small>Yes, I'm going to ask you</small> 24 MR. FRANK: I'm going to obtain a copy of it over the 25 lunch break.</p>

Page 284	Page 286
<p>1 HEARING OFFICER SCHAFFER: 2 your -- with that. We've been having -- we've spent hours 3 discussing subpoenas, and documents that have been subpoenaed 4 have not been produced, and for respondent's counsel to be 5 relying on documents that it's refusing to produce in the 6 questioning of these witnesses and in refusing to produce 7 witnesses that may help resolve the subpoena issues I think 8 it's really unfair to the petitioner for respondent's counsel 9 to be withholding the documents and then using them to cross- 10 examine witnesses. 11 And at this point we're going to go off the record and I'm 12 going to go have a discussion with the regional director. 13 MR. FRANK: No, but I need to say something on the record. 14 HEARING OFFICER SCHAFFER: Sure. 15 MR. FRANK: It was improper to be putting that statement 16 on this record. 17 HEARING OFFICER SCHAFFER: 18 the record. Stay on the record. Go ahead. 19 MR. FRANK: I believe that the hearing officer's comments 20 were -- belong in the subpoena record, not in this record, and 21 I don't know that what you were saying is accurate. 22 HEARING OFFICER SCHAFFER: 23 record. 24 (Recessed at 11:33 a.m.; reconvened at 12:00 p.m.) 25 HEARING OFFICER SCHAFFER: <small>Mr. Frank, I -- say --</small></p>	<p>1 choose which ones he's going to -- want to cross-examine the 2 witness on. I think that there's -- it's the position of MSO 3 and New York Methodist Hospital is to refuse to provide 4 documents to the petitioner in advance of us calling witnesses 5 then they should be not allowed to utilize these documents and 6 there should be really of adverse inference against them both 7 MSO and New York Methodist Hospital. 8 They're going to select and choose which ones they want to 9 ask the witness about and that's not in compliance with the 10 order that you have communicated to the parties. 11 HEARING OFFICER SCHAFFER: 12 MR. FRANK: I move to strike counsel's statement from this 13 record as it belongs in the subpoena record, not in this case, 14 and it was put into this record solely to prejudice the MSO of 15 Brooklyn and New York Methodist Hospital, and I move that it be 16 stricken, along with your initial comments as opposed to the 17 ones when you came back in here we accept that, I thought that 18 was appropriate. But counsel's current comment -- 19 HEARING OFFICER SCHAFFER: 20 MR. FRANK: -- is not appropriate to this record. 21 HEARING OFFICER SCHAFFER: 22 denying your motion. Continue with the cross-examination. 23 BY MR. FRANK: 24 Q What is your work schedule? 25 A 9:00 to 5:00. Well it's supposed to be 9:00 to 5:00, but</p>
Page 285	Page 287
<p>1 MR. FRANK: Which record are we in? 2 HEARING OFFICER SCHAFFER: 3 MR. FRANK: Okay. 4 HEARING OFFICER SCHAFFER: 5 asked of the witness based upon -- about specific documents 6 then those documents need to be handed to opposing counsel, 7 marked for identification prior to asking the witness questions 8 about the documents, as per normal rules of litigation 9 practice. 10 MR. FRANK: Okay. Okay. 11 HEARING OFFICER SCHAFFER: 12 you're maintaining in your possession whether electronically or 13 at -- or physically at your table and asking a witness to 14 verify questions about that -- about documents without first 15 producing them to opposing counsel to the petitioner in this 16 case is not appropriate. So -- 17 MR. FRANK: Okay. 18 HEARING OFFICER SCHAFFER: 19 MR. FRANK: I have no problem with that. 20 HEARING OFFICER SCHAFFER: 21 your questioning. 22 MS. WILCOX: I would just like to say for the record that 23 I don't think it's appropriate for the -- for counsel to refuse 24 on behalf of his clients not to produce any documents, and that 25 these are -- you know, and that if he's going to selectively</p>	<p>1 it varies. 2 Q And what is the variation? 3 A Sometimes I come in at 8:00 and I leave at -- it could be 4 4:00, 5:00, 6:00. It all depends on the schedule. 5 Q And do you work at the One Prospect Park location? 6 A That's correct. 7 Q And do you work in Suite C? 8 A Yes, I do. 9 Q And does that -- is there a sign above Suite C that says 10 Brooklyn Urology? 11 A Yes, there is. 12 Q And is your work schedule Monday to Friday? 13 A Yes, it is. 14 Q Do you wear a uniform? 15 A I -- not a uniform that was -- I wear regular scrubs. 16 Q Do you wear a uniform provided by Methodist Hospital? 17 A No, I do not. 18 Q Now, in your -- when did you start working? 19 A November of 2015. 20 Q Do you remember the date? Was it the date of -- 21 A November 2nd. 22 Q -- orientation? 23 A Yes, it was. November 2nd. 24 Q November 2nd? 25 A Yes.</p>

<p style="text-align: right;">Page 288</p> <p>1 Q Now, have you worked at One Prospect Park on every workday 2 since you started employment? 3 A No, I have not. 4 Q Okay. Was there three days where you worked at a 5 different location? 6 A Yes. 7 Q And was that because there was a flood at One Prospect 8 Park? 9 A That's correct. 10 Q And when was that? 11 A I don't recall the date. 12 Q Approximately. 13 A I'm sorry? 14 Q Approximately, what month? 15 A I don't recall. I think it was February, but -- 16 Q Of 2016? 17 A Yes. 18 Q Other -- and after the flood that required you to work 19 somewhere else for three days where did you work, where was the 20 location? 21 A I'm sorry, can you -- 22 Q Where was the location that you worked in for those three 23 days? 24 A Oh, it was across the street from the hospital, 6th Street 25 and 7th Avenue. I don't remember the exact address.</p>	<p style="text-align: right;">Page 290</p> <p>1 Q Okay. And who's -- which physician is in Dyker Heights? 2 A Dr. Zoltan. 3 Q So is it accurate that you either worked in One Prospect 4 Park, Suite C or Linden Boulevard or Dyker Heights? 5 A That is correct. 6 HEARING OFFICER SCHAFFER: _____ 7 Brooklyn Urology? 8 THE WITNESS: No. 9 HEARING OFFICER SCHAFFER: _____ 10 the same -- 11 THE WITNESS: Yes. 12 HEARING OFFICER SCHAFFER: _____ 13 where you're working? 14 THE WITNESS: No matter where. It's the same thing. 15 HEARING OFFICER SCHAFFER: _____ 16 one on the boulevard location, if you know? 17 THE WITNESS: I don't know actually. 18 HEARING OFFICER SCHAFFER: _____ 19 THE WITNESS: I just know at the Dyker Heights location it 20 says New York Methodist Associates in front of the building, 21 but it's a building with different -- they have different -- 22 they have like a cardiology office and a dialysis unit. 23 HEARING OFFICER SCHAFFER: _____ 24 York Methodist Associates? 25 THE WITNESS: Yes.</p>
<p style="text-align: right;">Page 289</p> <p>1 Q Now, during the month of November of 2015 did you work 2 every day at One Prospect Park West? 3 A Every day I was scheduled to work, yes. 4 Q Yes. Okay. And in December of 2015 did you work ever day 5 that you were scheduled to work at One Prospect Park West? 6 A Yes, I did. 7 Q And in January of 2016 did you work ever day at One 8 Prospect Park West scheduled at Suite C? 9 A I'm not sure because I also work at other -- well one of 10 our other offices. 11 Q Okay. What other offices do you work at? 12 A We have an office on Linden Boulevard. 13 Q I'm sorry -- 14 A Linden Boulevard. 15 Q Linden Boulevard. And which doctor -- is that some 16 physician's office? 17 A Dr. Collon. It's not a private office. 18 Q Not a private office? 19 A No, there's other doctors in that office. 20 Q Okay. Do you work -- other than Linden Boulevard, did you 21 work in any other offices? 22 A Yes, I did. 23 Q And what other offices? 24 A We have an office in Dyker Heights. I also worked during 25 the time of the flood.</p>	<p style="text-align: right;">Page 291</p> <p>1 HEARING OFFICER SCHAFFER: _____ 2 BY MR. FRANK: 3 Q Now, does Ms. Wood assign you to go to work at Linden or 4 Dyker Heights on those days? 5 A Yes, she does. 6 HEARING OFFICER SCHAFFER: _____ 7 Ms. Wood is also Ms. Dinnerstein. 8 MR. FRANK: I'm sorry. 9 BY MR. FRANK: 10 Q Ms. Dinnerstein? 11 A Yes. 12 Q And how does she give you the assignment whether to go to 13 Linden Boulevard or Dyker Heights? 14 A She tells me. 15 Q If you're going to be absent from work do you call 16 Ms. Dinnerstein to advise her at that time? 17 A Yes. Yes, I do. 18 Q And how do you know that you should call Ms. Dinnerstein 19 if you're going to be absent? 20 A I'm sorry, can you repeat the question? 21 Q Yeah. Did somebody tell you that you should call 22 Ms. Dinnerstein if you were going to be absent from work? 23 A Yeah, she did. 24 Q Okay. And when did she tell you that? 25 A When I started working there.</p>

<p style="text-align: right;">Page 292</p> <p>1 Q Have you worked at the New York Methodist Hospital 2 building on 6th Street at any time that you have been employed? 3 A No, I have not. 4 HEARING OFFICER SCHAFFER: <small>Did you say 6th Street?</small> 5 MR. FRANK: Yes. 6 HEARING OFFICER SCHAFFER: <small>Okay. Thank you very much.</small> 7 Avenue. I'm -- 8 BY MR. FRANK: 9 Q The hospital building is located on 6th Street; is that 10 correct? 11 A That's correct. 12 HEARING OFFICER SCHAFFER: <small>Okay. Thank you very much.</small> 13 just -- okay. 14 MR. FRANK: Okay. 15 BY MR. FRANK: 16 Q For the record New York Methodist Hospital building is on 17 6th Street? 18 A Correct. 19 Q And do you know the cross streets of the hospital? 20 A It's on 6th Street and 7th Avenue. 21 Q And how large is the stories? Do you know how many 22 stories the New York Methodist Hospital building is 23 approximately? 24 A I do not. 25 Q How far is One Prospect Park West from the New York</p>	<p style="text-align: right;">Page 294</p> <p>1 Q I'm not trying to embarrass anybody, but you assist 2 urologists in doing procedures? 3 A Correct. 4 Q Okay. And what kind of procedures do urologists perform 5 in a generic sense? 6 A They perform procedures that have to do with the kidney 7 stones such as ESWL procedures, just the breaking of the kidney 8 stones. They do vasectomies, circumcisions. We do 9 cystoscopies. We do bladder botox, prostate biopsies. 10 HEARING OFFICER SCHAFFER: <small>Okay. Mr. Frank.</small> 11 BY MR. FRANK: 12 Q Now, are each -- the kidney stone procedures, are those 13 done in the office at One Prospect Park? 14 A Depends on the procedure. If we do ESWLs, yes. 15 Q Okay. 16 HEARING OFFICER SCHAFFER: <small>What is that word?</small> 17 THE WITNESS: ESWL. It's E-S-W-L. 18 HEARING OFFICER SCHAFFER: <small>E-S-W-L?</small> 19 THE WITNESS: Yeah. Some kind of -- I don't know the -- 20 BY MR. FRANK: 21 Q Let me ask the question this way. On the procedures that 22 you assist -- do you assist all -- any of the five physicians? 23 A Yes, I do. 24 Q And you have a license as a licensed practical nurse? 25 A Correct.</p>
<p style="text-align: right;">Page 293</p> <p>1 Methodist Hospital and 6th Street and 7th Avenue? A mile or 2 two? 3 A About a mile. 4 Q Now, at any time that you were employed at One Prospect 5 Park West did you go to the New York Methodist Hospital 6 building for lunch at any time? 7 A No, I did not. 8 Q Do you ever go to the New York Methodist Hospital building 9 to change clothes? 10 A No, I do not. 11 Q Do you have any contact with employees of New York 12 Methodist Hospital in the New York Methodist Hospital building? 13 A No, I do not. 14 Q Now, is Brooklyn Urology a specialty practice of 15 physicians? 16 A I'm sorry, I'm not -- 17 Q What do the physicians at Brooklyn Urology or MSO of 18 Brooklyn, what do they do? 19 A They're urologists. 20 Q And what does a urologist do? 21 HEARING OFFICER SCHAFFER: <small>If you know.</small> 22 BY MR. FRANK: 23 Q If you know. Yes. 24 A A urologist deals with the study of urology. I don't 25 know --</p>	<p style="text-align: right;">Page 295</p> <p>1 Q On all the procedures where you're assisting the 2 physicians, are those performed at One Prospect Park West? 3 A Yes, correct. 4 Q If the urologist performed procedures at the hospital do 5 you have any involvement in assisting on those procedures? 6 A No, I do not. 7 (Pause) 8 Q Have you requested any vacation days off? 9 A No, I have not. 10 Q Have you been disciplined for anything? 11 A No, I have not. 12 Q Now, do you have -- is there another licensed practical 13 nurse who works in the Suite C of One Prospect Park West? 14 A There are two other. One is a temp. 15 Q And who are the other two other LPNs? 16 HEARING OFFICER SCHAFFER: <small>What's the two?</small> 17 THE WITNESS: I know her first -- I know their first 18 names. 19 HEARING OFFICER SCHAFFER: <small>Okay. Thank you very much.</small> 20 first name. 21 THE WITNESS: The temp is Urlin. 22 HEARING OFFICER SCHAFFER: Okay. 23 THE WITNESS: I'm not sure of her last name. 24 BY MR. FRANK: 25 Q Okay.</p>

<p style="text-align: right;">Page 296</p> <p>1 A And also the staff member is Erica. Also not sure of her 2 last name. They're fairly new there. 3 Q When you say fairly new, were they hired within the last 4 month? 5 A About a month. 6 Q And what is your job title at Griffin Urology? 7 A LPN clinical assistant. 8 Q Clinical assistant? 9 A Yes. 10 Q Where did you go to school? 11 A At the Brooklyn Adult Learning Center. 12 Q And did you obtain a degree there? 13 A Yes. 14 Q And what degree did you obtain? 15 A I got a certificate as a licensed practical nurse. 16 Q And did you subsequently obtain a license as a licensed 17 practical nurse? 18 A Yes, I did. 19 Q And that license is from the State of New York? 20 A Yes, it is. 21 Q And what type of procedures are you authorized to perform 22 pursuant to your license as a licensed practical nurse? 23 A What type of procedures in specifically to urology or -- 24 MS. WILCOX: I'm going to object to this line questioning. 25 HEARING OFFICER SCHAFFER: <small>You know the one --</small></p>	<p style="text-align: right;">Page 298</p> <p>1 administrative assistants sit which has about four tables. We 2 have the front desk. Then there's the procedure room. We have 3 four offices, three of which belong to the doctors, and one of 4 them is Suzanne's office. 5 BY MR. FRANK: 6 Q I'm sorry. There are four offices. Three for the doctor, 7 one for -- 8 A Yes, for the office manager. We have a research office. 9 And then we have the lunchroom. And we have four bathrooms. 10 Q And are any of the bathrooms, you know, reserved for staff 11 as opposed to patients or -- 12 A There's one bathroom reserved for staff. 13 Q And the staff bathroom, is that used by all staff? 14 A Yes. 15 Q And the lunchroom, do all of the staff eat in the same 16 lunchroom? 17 A Yes. 18 Q Okay. And if you want to talk to the office manager, 19 Suzanne, do you go to her office to discuss things? 20 A Yes. 21 Q And what kind of things have you discussed with the office 22 manager? 23 MS. WILCOX: Assumes that she has. 24 BY MR. FRANK: 25 Q If you have. Have you discussed anything with the office</p>
<p style="text-align: right;">Page 297</p> <p>1 MS. WILCOX: There's no question about what her 2 responsibilities are. I mean we've gone through what her 3 responsibilities are at One Prospect Park West, she -- there's 4 been no dispute that she's a licensed practical nurse and she 5 also holds the title there as a clinical assistant. So I 6 mean -- 7 MR. FRANK: Would you stipulate that she's a technical 8 employee in terms of the board's health care unit standards? 9 MS. WILCOX: We've already stipulated that clinical 10 assistants and LPNs who are -- LPNs are technical employees. 11 We have said that repeatedly. 12 BY MR. FRANK: 13 Q So I'm clear, is there a similar -- is there a registered 14 nurse who works at Brooklyn Urology? 15 A Yes, there is. 16 Q Who's the registered nurse? 17 A Melissa Han. 18 Q And do you work with her on a regular basis? 19 A She's also new. She's been there about three weeks. I've 20 worked with her maybe two or three times. 21 Q How large is Suite C? How many rooms are -- 22 HEARING OFFICER SCHAFFER: <small>Physically or --</small> 23 MR. FRANK: What? Physically. 24 THE WITNESS: We have four patient rooms, we have an area 25 where we draw blood. There is an office area where the</p>	<p style="text-align: right;">Page 299</p> <p>1 manager? 2 A Just stuff about work. If we need any medications. 3 Things regarding the procedure room or patients. 4 HEARING OFFICER SCHAFFER: <small>-----</small> 5 to ask the question with more specificity whether you're 6 talking about personnel issues or work issues. 7 MR. FRANK: Yeah. 8 BY MR. FRANK: 9 Q Does the office manager tell you what to do on matters 10 that are not clinical matters? 11 A Yes. 12 HEARING OFFICER SCHAFFER: <small>I think you --</small> 13 MR. FRANK: I'm going to try to cover it. 14 HEARING OFFICER SCHAFFER: Yeah. 15 BY MR. FRANK: 16 Q Am I correct that the physicians, urologists, tell you 17 what to do in regard to clinical matters? 18 A That is correct. 19 Q And are clinical matters how to deal with the patient and 20 what to do with the patients? 21 A Right. 22 Q Okay. Matters that are not how to care for the patient, 23 are those directions given to you by Ms. Dinnerstein, the 24 office manager? 25 A Yes.</p>

Page 300	Page 302
<p>1 Q Does your -- do you get a paycheck? 2 A Yes. 3 Q Direct deposit? 4 A Yes. 5 Q Does your paycheck say -- I had an exhibit yesterday. 6 MR. FRANK: Do you have a copy of the exhibit from 7 yesterday? 8 THE CLERK: Which document? 9 MR. FRANK: Paycheck. 10 THE CLERK: It's Union -- 11 MR. FRANK: Union 6. 12 THE CLERK: 6. 13 MR. FRANK: Do you have a copy -- well I don't want to use 14 the unredacted document. 15 HEARING OFFICER SCHAFFER: _____ 16 too. 17 MR. FRANK: Can you show the witness Union 6? 18 HEARING OFFICER SCHAFFER: Okay. 19 BY MR. FRANK: 20 Q Does your -- when you get your paycheck does it say MSO 21 Kings County, LLC on the top like Union Exhibit 6? 22 A Yes, it does. 23 Q Do you know that you are employed by MSO of Kings County? 24 HEARING OFFICER SCHAFFER: _____ I'm going to -- 25 MR. FELSTINER: Objection.</p>	<p>1 Q You don't recall what you applied for the job? 2 A I applied for a licensed practical nurse position on the 3 New York Methodist website. 4 Q Did you fill out tax withholding forms? 5 A I'm sorry? 6 MR. FELSTINER: Objection. 7 BY MR. FRANK: 8 Q Did you fill out any tax withholding forms? 9 MR. FELSTINER: This is the same thing. It's application 10 material. 11 HEARING OFFICER SCHAFFER: _____ 12 because it's such a -- based on evidence that's already come 13 in -- 14 MR. FRANK: Yeah. 15 HEARING OFFICER SCHAFFER: _____ 16 out. This is the thing, I'm going to -- I understand your 17 objection and I will -- 18 MR. FELSTINER: If he wants to refer to an exhibit -- 19 HEARING OFFICER SCHAFFER: Yes. 20 MR. FELSTINER: -- that's already in evidence we can 21 share, that's fine. 22 MR. FRANK: Where's the tax one? 23 HEARING OFFICER SCHAFFER: _____ Right. And back to -- 24 time, but yes, I understand. 25 I'm going to allow her -- you can answer that question,</p>
Page 301	Page 303
<p>1 HEARING OFFICER SCHAFFER: _____ It's a legal question. 2 BY MR. FRANK: 3 Q Has anybody ever told you that you worked for MSO of Kings 4 County, LLC? 5 A I wasn't really sure what MSO of Kings County was. I know 6 -- I was under the impression that MSO of Kings County is part 7 of New York Methodist, but I don't know exactly. I didn't know 8 that -- like I was never told that that's my employer. 9 Q Well do you know that -- did you apply to work at MSO 10 Kings County? 11 A I applied to work on the New York Methodist website. 12 Q And on that website did you go to MSO Kings County portion 13 of that website? 14 A I didn't know there was an MSO of Kings County portion. 15 Q Well did you complete an employment application? 16 A Yes. 17 Q And did that employment application that you completed say 18 MSO of Kings County? 19 MR. FELSTINER: Objection. 20 HEARING OFFICER SCHAFFER: _____ 21 -- this is the exact same question that you asked at the outset 22 of your -- and I've made my ruling. 23 MR. FRANK: Okay. I'll -- I do not have a copy of the 24 document with me, but we'll come back to it. 25 BY MR. FRANK:</p>	<p>1 but I'm limiting how far -- 2 MR. FRANK: I'll get the document. 3 HEARING OFFICER SCHAFFER: _____ 4 get for the same reason stated. 5 MR. FRANK: I will find -- I will try to locate the 6 documents before I proceed and show counsel before and be 7 directed. 8 HEARING OFFICER SCHAFFER: _____ 9 filling out tax information when you first went to work? 10 THE WITNESS: Yes, I did. 11 HEARING OFFICER SCHAFFER: Okay. 12 BY MR. FRANK: 13 Q And did you write down the name of your employer when you 14 did that? 15 MR. FELSTINER: Objection. We're talking about a document 16 that -- 17 HEARING OFFICER SCHAFFER: _____ 18 going to speak for itself, so -- and I'm sustaining the 19 objection. 20 (Pause) 21 BY MR. FRANK: 22 Q Are there administrative assistants who work at One 23 Prospect Park West? 24 A Yes, there are. 25 Q How many administrative assistants work in Suite C?</p>

<p style="text-align: right;">Page 304</p> <p>1 A I believe it's four.</p> <p>2 Q And do you work with them every day that you're in the</p> <p>3 office?</p> <p>4 A Yes, I do.</p> <p>5 Q And are they -- do they receive directions from Suzanne?</p> <p>6 A Yes, they do.</p> <p>7 Q Do you know Joanne Kennedy?</p> <p>8 A Yes, I do.</p> <p>9 Q Who's Joanne Kennedy?</p> <p>10 A She hired me.</p> <p>11 Q She hired you.</p> <p>12 HEARING OFFICER SCHAFFER: <small>That's the individual that's</small></p> <p>13 been sitting in the room?</p> <p>14 THE WITNESS: Yes.</p> <p>15 HEARING OFFICER SCHAFFER: Okay.</p> <p>16 THE WITNESS: Correct.</p> <p>17 HEARING OFFICER SCHAFFER: <small>That's the individual that's</small></p> <p>18 out for the moment.</p> <p>19 MR. FRANK: Do you want me to wait for her to come back?</p> <p>20 HEARING OFFICER SCHAFFER: <small>That's the individual that's</small></p> <p>21 that because we're identifying someone that's not in the room,</p> <p>22 but she has been here.</p> <p>23 BY MR. FRANK:</p> <p>24 Q When did Joanne Kennedy hire you?</p> <p>25 A November 2nd of 2015.</p>	<p style="text-align: right;">Page 306</p> <p>1 Q And after the interview with Ms. Dinnerstein is that when</p> <p>2 you had the interview with Ms. Kennedy?</p> <p>3 A I'm sorry, I had the interview with Ms. Kennedy first.</p> <p>4 Q Okay.</p> <p>5 A And then with Ms. Dinnerstein.</p> <p>6 Q And did somebody call you after your interview with</p> <p>7 Ms. Dinnerstein?</p> <p>8 A Ms. Kennedy called me.</p> <p>9 Q And when did Ms. Kennedy call you?</p> <p>10 A A few days later.</p> <p>11 Q If the interview was on November 2nd can you approximate</p> <p>12 when you were called by Ms. Kennedy?</p> <p>13 A The interview was not November 2nd, I was hired</p> <p>14 November 2nd. That was my starting.</p> <p>15 Q Maybe I got confused. November 2nd was your start date?</p> <p>16 A Correct.</p> <p>17 Q Okay. When -- can we backtrack?</p> <p>18 When did you have the interview with Ms. Kennedy on 9th</p> <p>19 Street?</p> <p>20 A That was some time in October. I'm going say mid October.</p> <p>21 Maybe October 15th or something. Somewhere around there.</p> <p>22 Q Approximation is fine.</p> <p>23 A Uh-huh.</p> <p>24 Q And when did you have the interview with Ms. Dinnerstein?</p> <p>25 A Also the same day I had -- which October -- mid October.</p>
<p style="text-align: right;">Page 305</p> <p>1 Q Did she interview you?</p> <p>2 A Yes, she did.</p> <p>3 Q Where did she interview you?</p> <p>4 A At 9th Street in human resources department at Methodist</p> <p>5 -- of Methodist.</p> <p>6 Q Now, is 9th Street a separate location from the hospital</p> <p>7 building?</p> <p>8 A Yes, it is.</p> <p>9 Q How far is 9th Street location from the hospital building?</p> <p>10 A Like a 15-minute walk.</p> <p>11 Q And did Ms. Kennedy tell you that you would be working for</p> <p>12 MSO of Kings County?</p> <p>13 A Yes, she did.</p> <p>14 Q Now, did you also have an interview with Ms. Dinnerstein?</p> <p>15 A Yes, I did.</p> <p>16 Q And when did you interview Ms. Dinnerstein? Or with</p> <p>17 Ms. Dinnerstein?</p> <p>18 A The same day I interviewed with Joanne.</p> <p>19 Q Okay. And where did that interview take place?</p> <p>20 A At One Prospect Park West.</p> <p>21 Q And did Ms. Dinnerstein tell you that you would be hired</p> <p>22 by MSO of Kings County?</p> <p>23 A No, she did not.</p> <p>24 Q Did she say anything about you're being hired?</p> <p>25 A She interviewed me and then said that they would call me.</p>	<p style="text-align: right;">Page 307</p> <p>1 Q Okay. And then several days later Ms. Kennedy called you?</p> <p>2 A Correct.</p> <p>3 Q And where did she call you?</p> <p>4 A I'm sorry, my -- where did she call you?</p> <p>5 Q Yes.</p> <p>6 A On my cell phone.</p> <p>7 Q You had given her your cell phone number?</p> <p>8 A Correct.</p> <p>9 Q Okay. And what did Ms. Kennedy say to you?</p> <p>10 A She offered me the position.</p> <p>11 Q And did she offer you the position at MSO of Kings County?</p> <p>12 A She -- correct.</p> <p>13 HEARING OFFICER SCHAFFER: <small>That's the individual that's</small></p> <p>14 Kings County?</p> <p>15 THE WITNESS: I don't remember that.</p> <p>16 HEARING OFFICER SCHAFFER: <small>That's the individual that's</small></p> <p>17 job --</p> <p>18 THE WITNESS: Yes.</p> <p>19 HEARING OFFICER SCHAFFER: <small>That's the individual that's</small></p> <p>20 THE WITNESS: Yes.</p> <p>21 HEARING OFFICER SCHAFFER: Okay.</p> <p>22 BY MR. FRANK:</p> <p>23 Q What did you say the job was?</p> <p>24 A The -- she told me the LPN clinical assistant job that I</p> <p>25 had applied for.</p>

<p style="text-align: right;">Page 308</p> <p>1 Q And did she tell you that you would be working at One 2 Prospect Park West? 3 A I'm not sure if that was discussed in the phone 4 conversation or when I was with her at 9th Street. 5 Q But when -- you accepted the job offer? 6 A Yes, I did. 7 Q And when you accepted the job offer did you know you would 8 be working for the Brooklyn Urology practice on One Prospect 9 Park West? 10 A I'm not sure I knew it was at One Prospect Park West at 11 the time. I knew I was working for urology -- the urology 12 department. I'm not sure if I was aware it was at One Prospect 13 Park West. 14 Q Were you aware that you would not be working at the 15 hospital building -- New York Methodist Hospital building? 16 A I'm not sure if I was aware of that at the time. 17 Q Okay. When did you learn that you would not be working at 18 the hospital building? 19 A I believe it was when -- I honestly don't know. I'm not 20 sure. 21 Q Well is it a fact that after orientation from the first 22 day you were working for the urology practice it was at One 23 Prospect Park West, Suite C? 24 A Yes. 25 Q Okay. And did somebody tell you that you would report to</p>	<p style="text-align: right;">Page 310</p> <p>1 Q Okay. Do they also go to the physician's offices? 2 A Yes, they do. 3 Q Is it a fact that none of them work at New York Methodist 4 Hospital on 6th Street? 5 A That is correct. 6 Q Correct? 7 A Correct. 8 Q Is it a fact that of -- putting aside the physicians -- 9 none of the employees of MSO Kings County who worked at One 10 Prospect Park West -- 11 MR. FELSTINER: Objection to the characterization of 12 people as MSO, that's the legal issue being assumed in the form 13 of the question. 14 HEARING OFFICER SCHAFFER: <small>He passed that one before</small> 15 to the unit employees as well, because we know that some of the 16 doctors do and I don't know their employment status, so. 17 MR. FRANK: Okay. 18 BY MR. FRANK: 19 Q Is it a fact that all of the employees of urology practice 20 at One Prospect Park West do not work at New York Methodist 21 Hospital on 6th Street? 22 A Excluding the doctors? 23 Q Excluding the doctors. 24 A That is correct. 25 Q And is it accurate to say that all of the employees of the</p>
<p style="text-align: right;">Page 309</p> <p>1 work at One Prospect Park West? 2 A Yes, at that time I knew that. 3 Q Okay. And who told you that? 4 A Joanne Kennedy. 5 Q Okay. And do you know what Ms. Kennedy's position is? 6 A I know she's a human resources representative I believe. 7 Q To your knowledge do any of the administrative assistants 8 in the urology practice perform any duties at New York 9 Methodist Hospital on 6th Street? 10 A I know two administrative assistants were at 6th Street at 11 the time that we had the flood. 12 Q Other than the three days of the flood? 13 A No. 14 Q And did the administrative assistants spend some time 15 working in the other physician practice sites like you do, 16 Dyker Heights? 17 A Yes. 18 Q Be they don't work in the hospital building? 19 A No, they do not. 20 Q Now, are there office assistants who also work -- 21 A Yes, there are. 22 Q And how many office assistants are there? 23 A I'm not sure. 24 Q Do they work exclusively at One Prospect Park West? 25 A No, they do not.</p>	<p style="text-align: right;">Page 311</p> <p>1 urology practice who perform or assistant with procedures do so 2 exclusively at One Prospect Park West, Suite C? You described 3 that you help procedures, you are involved in them at One 4 Prospect Park West. 5 HEARING OFFICER SCHAFFER: <small>He witness has already</small> 6 testified she goes to those other locations occasionally, so. 7 MR. FRANK: Oh, let me rephrase then. 8 BY MR. FRANK: 9 Q Isn't it a fact that none of the employees who are at One 10 Prospect Park West perform or assistant with any procedures at 11 New York Methodist Hospital? 12 A That is correct. 13 MR. FELSTINER: <small>Is that still excluding doctors?</small> I'm not 14 sure if I'm following. 15 HEARING OFFICER SCHAFFER: <small>Heads, we're going</small> 16 clarify that it's excluding doctors. 17 MR. FRANK: Yes. 18 BY MR. FRANK: 19 Q If a -- the physicians who have a practice, the urology 20 practice, they may do procedures at the hospital? 21 A Yes, they do. 22 Q Okay. And if the physicians do procedures at the hospital 23 there is hospital staff that assists them? 24 HEARING OFFICER SCHAFFER: _____ 25 answer to the question if this witness has never been part of</p>

<p style="text-align: right;">Page 312</p> <p>1 the procedure.</p> <p>2 BY MR. FRANK:</p> <p>3 Q Do you know that?</p> <p>4 A I don't know.</p> <p>5 Q Well are you aware -- do you look at the medical records?</p> <p>6 HEARING OFFICER SCHAFFER: <small>She said -- it's the past</small></p> <p>7 was just to make a clarification that the witness is testifying</p> <p>8 about the unit employees don't perform procedures at New York</p> <p>9 Methodist. We don't need to get into what the doctors are</p> <p>10 doctor at New York Methodist and who was assisting them.</p> <p>11 MR. FRANK: No, I was saying the assistants. I was trying</p> <p>12 to ask --</p> <p>13 BY MR. FRANK:</p> <p>14 Q The people who assist the physicians when they worked in</p> <p>15 the hospital are employees of the hospital --</p> <p>16 HEARING OFFICER SCHAFFER: <small>-----</small></p> <p>17 the answer to that, so. She's testified she doesn't know the</p> <p>18 answer to it. She just did.</p> <p>19 MR. FRANK: Oh. I didn't hear that. I'm sorry.</p> <p>20 HEARING OFFICER SCHAFFER: Okay.</p> <p>21 THE WITNESS: I don't know the answer.</p> <p>22 BY MR. FRANK:</p> <p>23 Q You don't know who assists them?</p> <p>24 A No.</p> <p>25 Q Is there a medical record system at urology practice?</p>	<p style="text-align: right;">Page 314</p> <p>1 A Yes.</p> <p>2 Q And do all of the employees have the ability to make</p> <p>3 entries into the UroChart system within their fields of</p> <p>4 confidence?</p> <p>5 A Yes.</p> <p>6 Q Would it be accurate to say that all of the employees of</p> <p>7 the practice work on the same medical record chart for each</p> <p>8 patient?</p> <p>9 A I'm sorry, I don't understand the question.</p> <p>10 Q Is there one medical chart for each patient in the</p> <p>11 practice?</p> <p>12 A Yes.</p> <p>13 Q Okay. And is it a fact that all of -- each of the</p> <p>14 employees of the practice may have an interaction or obtain</p> <p>15 information from the patient will put their report or their</p> <p>16 observations on the same chart as a medical record?</p> <p>17 A Yes.</p> <p>18 Q And would it be accurate to say that all of the employees</p> <p>19 in the practice work together to provide patient care to the</p> <p>20 patients of the urology practice?</p> <p>21 HEARING OFFICER SCHAFFER: <small>-----</small></p> <p>22 characterization, which is not fit. I think you made -- the</p> <p>23 facts about what they do is fine, but whether they all -- that</p> <p>24 then therefore means they all work together is just not --</p> <p>25 it's --</p>
<p style="text-align: right;">Page 313</p> <p>1 A Yes, there is.</p> <p>2 Q A patients medical record system?</p> <p>3 A Yes, there is.</p> <p>4 Q What's that called?</p> <p>5 A UroChart.</p> <p>6 Q UroChart. Is that a different medical record system than</p> <p>7 the hospital maintains?</p> <p>8 A Yes, it is.</p> <p>9 Q Okay. Would you describe what UroChart is?</p> <p>10 A It holds all the -- we put in the patient information, the</p> <p>11 patient's history, and the physical, their diagnosis. When the</p> <p>12 patient comes in we put in the reason why the patient is there,</p> <p>13 we ask them all these question, and then it like generates into</p> <p>14 a report.</p> <p>15 Q And who generates the report at the urology practice?</p> <p>16 A The actual -- UroChart does it. So there's a whole bunch</p> <p>17 of questions you ask the patient and then it comes up as a</p> <p>18 report once you answer all the questions.</p> <p>19 Q And what do you do with this report when you -- do you get</p> <p>20 a copy of the report?</p> <p>21 A The report stays in the computer.</p> <p>22 Q Okay. And do you have access to that computer?</p> <p>23 A Yes.</p> <p>24 Q And do all of the employees in Suite C of One Prospect</p> <p>25 Park West have access to that computer?</p>	<p style="text-align: right;">Page 315</p> <p>1 MR. FRANK: Well let me be more specific.</p> <p>2 BY MR. FRANK:</p> <p>3 Q Do you talk to --</p> <p>4 HEARING OFFICER SCHAFFER: <small>-----</small></p> <p>5 be more specific, but I'm not sure what the line of inquiry is</p> <p>6 trying to address.</p> <p>7 BY MR. FRANK:</p> <p>8 Q You also work with the registered nurses?</p> <p>9 A There is one registered nurse.</p> <p>10 Q Who does she do?</p> <p>11 A What does she do?</p> <p>12 Q Yes.</p> <p>13 A Well she's been there about three weeks and I haven't</p> <p>14 worked with her much, but she does the same thing that I do.</p> <p>15 Q Does she have a different license than you do?</p> <p>16 A Yeah, she's a registered nurse.</p> <p>17 Q Okay. And can she give injections?</p> <p>18 A Yes, she can.</p> <p>19 Q Okay. And are there any physician assistants?</p> <p>20 A Yes.</p> <p>21 Q How many physician assistants?</p> <p>22 A Two.</p> <p>23 Q And do the physician assistants give you directions on</p> <p>24 what to do?</p> <p>25 A No.</p>

<p style="text-align: right;">Page 316</p> <p>1 Q All right. What do they do?</p> <p>2 A They assist the doctors with telephone calls from the</p> <p>3 patients and other doctors.</p> <p>4 Q Okay. Do they diagnose and treat patients?</p> <p>5 A I'm not sure if they diagnose. They treat patients. I'm</p> <p>6 not sure if they diagnose patients.</p> <p>7 Q Do you ever work with the physician assistants?</p> <p>8 A Yes, I do.</p> <p>9 Q Now, prior to the nurse who started three weeks ago was</p> <p>10 there a registered nurse who worked in the practice?</p> <p>11 A Not during the time that I've been there.</p> <p>12 Q Okay.</p> <p>13 (Pause)</p> <p>14 Q Do you do -- withdrawn.</p> <p>15 Do you make any entries into the hospital cerner system?</p> <p>16 A No, I do not.</p> <p>17 Q Okay. Do you know what the cerner system is?</p> <p>18 A I know -- I believe it gives them access to records at</p> <p>19 Methodist Hospital.</p> <p>20 Q So the hospital patient records are in the cerner system?</p> <p>21 A I believe so.</p> <p>22 Q Where does Janet Gonzalez work?</p> <p>23 A She works at the front desk.</p> <p>24 Q Okay. And do you have interactions with Janet Gonzalez on</p> <p>25 a daily basis?</p>	<p style="text-align: right;">Page 318</p> <p>1 Q But if you know the answer --</p> <p>2 A -- the anesthesiologist.</p> <p>3 (Pause)</p> <p>4 MR. FRANK: Can we go off the record?</p> <p>5 HEARING OFFICER SCHAFFER: Yeah.</p> <p>6 MR. FRANK: Did you want to take a break?</p> <p>7 HEARING OFFICER SCHAFFER: -----</p> <p>8 fine. Thank you though.</p> <p>9 MR. FELSTINER: Does the witness need a break?</p> <p>10 MR. FRANK: What?</p> <p>11 MR. FELSTINER: I'm just checking --</p> <p>12 HEARING OFFICER SCHAFFER: <small>See no objection filed</small></p> <p>13 MR. FELSTINER: -- if the witness needs a break.</p> <p>14 MR. FRANK: We can take a break now.</p> <p>15 MR. FELSTINER: I want -- I'd like -- if we're almost done</p> <p>16 I --</p> <p>17 HEARING OFFICER SCHAFFER: Yeah.</p> <p>18 MR. FRANK: No, I would like to take a break because I'm</p> <p>19 going to comply with what you suggested and this might be a</p> <p>20 good time to take a lunch break.</p> <p>21 HEARING OFFICER SCHAFFER: <small>Okay, I'll take a break</small></p> <p>22 -- it's 10 to 1:00, come back at 1:50. Go off the record.</p> <p>23 MR. FRANK: If we can --</p> <p>24 HEARING OFFICER SCHAFFER: <small>Okay, I'll take a break</small></p> <p>25 the top sheet of Union 28 references individuals that may be</p>
<p style="text-align: right;">Page 317</p> <p>1 A Not ever day.</p> <p>2 Q Most days?</p> <p>3 A Yeah.</p> <p>4 Q Okay.</p> <p>5 HEARING OFFICER SCHAFFER: <small>See no objection filed</small></p> <p>6 a little.</p> <p>7 BY MR. FRANK:</p> <p>8 Q And she works at the front desk?</p> <p>9 A Yes.</p> <p>10 Q Do you make telephone calls to patients?</p> <p>11 A Yes, I do.</p> <p>12 Q What kind of calls do you make to patients?</p> <p>13 A I call patients to confirm they appointments and give them</p> <p>14 proper instruction before their procedure.</p> <p>15 Q What kind of instructions do you provide to patients?</p> <p>16 A I explain to them not to eat drink anything -- sorry --</p> <p>17 after midnight. I check if they have any allergies to any</p> <p>18 medications. If they're on any blood thinners I advise them to</p> <p>19 stop the blood thinners. And I tell them that they need to</p> <p>20 have someone pick them up after the procedure because they're</p> <p>21 getting anesthesia.</p> <p>22 Q And if the patients have questions regarding the</p> <p>23 anesthesia or their procedures do you answer their questions?</p> <p>24 A If I don't know the answer I will ask one of the doctors</p> <p>25 or --</p>	<p style="text-align: right;">Page 319</p> <p>1 responsible for labor relations, given that someone signed the</p> <p>2 document, I'm going to admit the top sheet only and remove the</p> <p>3 union -- the other documents attached to the document. So --</p> <p>4 MR. FRANK: I object to that.</p> <p>5 HEARING OFFICER SCHAFFER: Okay.</p> <p>6 MR. FRANK: I would want the whole document in.</p> <p>7 HEARING OFFICER SCHAFFER: <small>Would you object to that?</small></p> <p>8 MR. FRANK: Yes, whole document. If you're going to put</p> <p>9 it in I want the whole document in.</p> <p>10 HEARING OFFICER SCHAFFER: <small>Oh, okay, I'll take a break</small></p> <p>11 going to put the whole document in. Union 28 is admitted as</p> <p>12 evidence.</p> <p>13 (Union Exhibit No. 28 received)</p> <p>14 HEARING OFFICER SCHAFFER: <small>Okay, I'll take a break</small></p> <p>15 lunch.</p> <p>16 MR. FRANK: We have an objection to it coming in, but if</p> <p>17 it's coming in it's the whole document. That's my --</p> <p>18 HEARING OFFICER SCHAFFER: <small>Okay, I'll take a break</small></p> <p>19 record.</p> <p>20 (Recessed at 12:52 p.m.)</p> <p>21</p>

Page 320	Page 322
<p>1 AFTERNOON SESSION 2 (Time Noted: 2:09 p.m.) 3 HEARING OFFICER SCHAEFER: <small>On the record.</small> 4 Mr. Frank, do you want to continue? 5 MR. FRANK: Yes. 6 CONTINUED CROSS-EXAMINATION 7 BY MR. FRANK: 8 Q Ms. Feliciano, did there come a time in 2016 where you 9 approached Ms. Dinnerstein about obtaining a wage increase? 10 A No, I did not. 11 Q Did you talk to her about getting a 3 percent wage 12 increase? 13 A No, I did not. 14 Q Did you talk to anybody about getting a wage increase in 15 2015? 16 HEARING OFFICER SCHAEFER: <small>On the record.</small> 17 she talk to any member of -- 18 MR. FRANK: Management, yeah. 19 HEARING OFFICER SCHAEFER: <small>On the record.</small> 20 MR. FRANK: Yes. 21 HEARING OFFICER SCHAEFER: Okay. 22 THE WITNESS: I'm sorry, maybe I'm not understanding the 23 question. Did I ask for a wage increase? 24 BY MR. FRANK: 25 Q You started to work in October?</p>	<p>1 HEARING OFFICER SCHAEFER: <small>On the record.</small> 2 that wage increase was it something that everyone got or did 3 you get the wage increase separately from other people? 4 THE WITNESS: Everyone got the wage increase, if I'm not 5 mistaken. 6 HEARING OFFICER SCHAEFER: <small>On the record.</small> 7 anyone before you got the wage increase or did they just give 8 it to you and you didn't ask for it? 9 THE WITNESS: I didn't ask for the wage increase, no. 10 HEARING OFFICER SCHAEFER: <small>On the record.</small> 11 increase with you before you got it? 12 THE WITNESS: Yes. 13 HEARING OFFICER SCHAEFER: Who? 14 THE WITNESS: Dr. Grunberger. 15 HEARING OFFICER SCHAEFER: <small>On the record.</small> 16 Grunberger tell you, you were getting the wage increase or did 17 you request the wage increase? 18 THE WITNESS: He told me I was getting the wage increase. 19 HEARING OFFICER SCHAEFER: <small>On the record.</small> 20 you satisfied with that, Mr. Frank? 21 BY MR. FRANK: 22 Q Did Dr. Grunberger say anything to the effect that Ms. 23 Dinnerstein was involved in obtaining the wage increase for 24 you? 25 A Yes.</p>
Page 321	Page 323
<p>1 A Yes. 2 Q What is the first date, November? 3 A I'm sorry, November 2nd. 4 Q And was there a wage increase that was provided to 5 employees who were employed as of October 15th? 6 A I don't know what the starting time was but there was a 7 wage increase that I received, yes. 8 Q Was that wage increase directed and made available for 9 employees who were employed prior to your start date? 10 MR. FELSTINER: Foundation. 11 HEARING OFFICER SCHAEFER: <small>On the record.</small> 12 that. 13 BY MR. FRANK: 14 Q Did you have any conversations about -- did somebody get 15 you a wage increase that you might not otherwise have been 16 entitled to in management, Susan or somebody else in 17 management, Joanne? 18 A I'm sorry, that I'm not entitled to? 19 HEARING OFFICER SCHAEFER: <small>On the record.</small> 20 to figure did there come a time when you got a wage increase? 21 THE WITNESS: Correct, yes. 22 MR. FRANK: When was it? 23 HEARING OFFICER SCHAEFER: <small>On the record.</small> 24 increase, as close as when you recall it approximately? 25 THE WITNESS: The wage increase was in March.</p>	<p>1 Q What did he say? 2 A He said that they were giving a wage increase. I believe 3 it was every year they get a 3 percent raise. And he had 4 mentioned that it was short, like I was short by a few days of 5 my employment and that they contacted Jennifer Donovan and they 6 spoke with Jennifer Donovan about including me in the wage 7 increase. 8 HEARING OFFICER SCHAEFER: <small>On the record.</small> 9 did that mean Grunberger and Dinnerstein contacted Donovan? 10 THE WITNESS: Yes, correct. And she approved it. 11 BY MR. FRANK: 12 Q Isn't it a fact that you do not use the hospital email 13 system even though you're set up? 14 A That is correct. 15 Q Does your identification card have a yellow stripe on it? 16 A I'm not sure. 17 Q Do you have your card? Do you have it? 18 A Yes. 19 Q Can you take a look? 20 MR. FRANK: Yellow on both sides of the picture ID. 21 HEARING OFFICER SCHAEFER: <small>On the record.</small> 22 Well, you've refreshed the witness' recollection. Can you now 23 answer the question does your ID badge have a yellow stripe on 24 it? 25 THE WITNESS: This yellow stripe? I was speaking of this,</p>

Page 324	Page 326
<p>1 yes.</p> <p>2 MR. FELSTINER: Can we have an indication in the record of</p> <p>3 where she is --</p> <p>4 HEARING OFFICER SCHAEFER: <small>Can we have an indication of where she is?</small></p> <p>5 at and is pointing to the left and right side of a photo which</p> <p>6 is in the center of the ID.</p> <p>7 BY MR. FRANK:</p> <p>8 Q Are you aware of any employees in the Brooklyn Urology</p> <p>9 practice who have been disciplined while you were employed</p> <p>10 there?</p> <p>11 A No, I have not.</p> <p>12 Q Do you make any use of the computer in the offices at One</p> <p>13 Prospect Park West?</p> <p>14 A Yes, I do.</p> <p>15 Q What kind of work do you do on the computer?</p> <p>16 A I enter notes in the computer.</p> <p>17 Q Do you sign in, in the morning on the computer?</p> <p>18 A Yes, I do.</p> <p>19 Q How do you do that?</p> <p>20 A With my username and password.</p> <p>21 Q Do you sign on (sic) at the end of the day?</p> <p>22 A Yes, I do.</p> <p>23 Q On the computer?</p> <p>24 A Yes.</p> <p>25 Q Is that the same procedure that all the employees follow</p>	<p>1 HEARING OFFICER SCHAEFER: Sure.</p> <p>2 (Recess from 2:20 p.m. to 2:40 p.m.)</p> <p>3 HEARING OFFICER SCHAEFER: <small>I don't know if that was</small></p> <p>4 covered on the record, but the Employer --</p> <p>5 MR. FRANK: I think in the subpoena record. Maybe I can</p> <p>6 put a statement --</p> <p>7 HEARING OFFICER SCHAEFER: <small>I'll do that later.</small></p> <p>8 MR. FRANK: -- as to what we're doing.</p> <p>9 HEARING OFFICER SCHAEFER: <small>I can't remember exactly.</small></p> <p>10 that documents were --</p> <p>11 MR. FRANK: Without waiver of the MSO position, some</p> <p>12 documents were produced to the Union counsel and we've agreed</p> <p>13 we could proceed with them. They reserve their rights. MSO</p> <p>14 reserves its rights.</p> <p>15 HEARING OFFICER SCHAEFER: Okay.</p> <p>16 MR. FELSTINER: We're satisfied.</p> <p>17 HEARING OFFICER SCHAEFER: <small>Okay, go ahead.</small></p> <p>18 MR. FRANK: I believe it's MSO-2.</p> <p>19 HEARING OFFICER SCHAEFER: <small>Yes, well, as far as MSO-1.</small></p> <p>20 The petition is also in the record, the old Petitioner. So</p> <p>21 it's the certification of results and then the MSO petition</p> <p>22 related to Wound Care is MSO-2. The other one is in the other</p> <p>23 record -- I'm sorry, Urology.</p> <p>24 MR. FRANK: So this would be MSO-5?</p> <p>25 HEARING OFFICER SCHAEFER: <small>I'm the certification of</small></p>
Page 325	Page 327
<p>1 at One Prospect Park West?</p> <p>2 A Yes, it is.</p> <p>3 Q Do you know Leslie Marks?</p> <p>4 A No, I do not.</p> <p>5 Q Do you know if she works at One Prospect Park West?</p> <p>6 A No.</p> <p>7 Q Is Erica's last name McCullough, the other LPN?</p> <p>8 A I'm not sure of her last name.</p> <p>9 Q Do you have any involvement in billing?</p> <p>10 A No, I do not.</p> <p>11 Q Did you receive any training in how to use UroChart?</p> <p>12 HEARING OFFICER SCHAEFER: <small>Do you want to ask a question?</small></p> <p>13 class?</p> <p>14 BY MR. FRANK:</p> <p>15 Q Was there a class or on the job training?</p> <p>16 A No, I did not.</p> <p>17 Q Did anybody explain to you how to use UroChart?</p> <p>18 A Yes.</p> <p>19 Q Who did that?</p> <p>20 A The other staff members I work with, the physician</p> <p>21 assistants, the medical assistants.</p> <p>22 HEARING OFFICER SCHAEFER: <small>Do you want to ask a question?</small></p> <p>23 THE WITNESS: Yes.</p> <p>24 (Pause.)</p> <p>25 MR. FRANK: Can we go off the record a second?</p>	<p>1 results.</p> <p>2 MR. FRANK: Okay. Can I have this marked as MSO-3, a</p> <p>3 letter dated October 15, 2015.</p> <p>4 (Employer MSO-3 identified.)</p> <p>5 HEARING OFFICER SCHAEFER: <small>When was the letter dated?</small></p> <p>6 MR. FRANK: October 15, 2015. If the reporter would show</p> <p>7 the letter to the witness?</p> <p>8 BY MR. FRANK:</p> <p>9 Q Ms. Feliciano, is that your signature on the bottom of the</p> <p>10 document?</p> <p>11 A Yes, it is.</p> <p>12 Q Did you receive this document on or about October 15,</p> <p>13 2015?</p> <p>14 A October 26th.</p> <p>15 Q That's why I was asking. The letter is dated</p> <p>16 October 15th, so you received it about October 26th?</p> <p>17 A I believe so, yes.</p> <p>18 Q It was October 26th when you signed the document?</p> <p>19 A Yes.</p> <p>20 Q And did the document clearly -- did you understand that</p> <p>21 you were going to be a clinical assistant at MSO of Brooklyn</p> <p>22 effective November 2, 2015?</p> <p>23 A Yes, I did.</p> <p>24 MR. FRANK: I offer MSO-3.</p> <p>25 HEARING OFFICER SCHAEFER: <small>Any objection?</small></p>

<p style="text-align: right;">Page 328</p> <p>1 MR. FELSTINER: No.</p> <p>2 HEARING OFFICER SCHAEFER: <small>(The MSO-3 is received.)</small></p> <p>3 evidence.</p> <p>4 (Employer's MSO-3 received.)</p> <p>5 BY MR. FRANK:</p> <p>6 Q Did you also fill out tax withholding forms when you</p> <p>7 started employment?</p> <p>8 A Yes, I did.</p> <p>9 MR. FRANK: Can I have this marked as MSO-4?</p> <p>10 (Employer's MSO-4 identified.)</p> <p>11 MR. FRANK: A copy to counsel.</p> <p>12 MR. FELSTINER: Which one is this? Sorry.</p> <p>13 MR. FRANK: This is the W-4.</p> <p>14 MR. FELSTINER: W-4, okay.</p> <p>15 MR. FRANK: We've redacted the address and identifying</p> <p>16 social security information.</p> <p>17 MR. FELSTINER: I see.</p> <p>18 MR. FRANK: If you have a need for the original --</p> <p>19 BY MR. FRANK:</p> <p>20 Q Would you please review MSO-4 which the reporter has</p> <p>21 provided to you. Is that your signature?</p> <p>22 A Yes, it is.</p> <p>23 Q Did you authorize the one, two withholdings?</p> <p>24 A Yes.</p> <p>25 Q Does this refer to your employer as MSO of Kings County?</p>	<p style="text-align: right;">Page 330</p> <p>1 HEARING OFFICER SCHAEFER: <small>(The MSO-4 is admitted.)</small></p> <p>2 her first because the other document also is -- do you want</p> <p>3 this in evidence?</p> <p>4 MR. FRANK: Yes.</p> <p>5 MR. FELSTINER: "This" you're referring to 5 or 4?</p> <p>6 HEARING OFFICER SCHAEFER: <small>(The W-4 is --)</small></p> <p>7 MR. FELSTINER: I don't believe it's been admitted yet.</p> <p>8 HEARING OFFICER SCHAEFER: <small>(Is there any objection?)</small></p> <p>9 MR. FELSTINER: No.</p> <p>10 HEARING OFFICER SCHAEFER: <small>(MSO-4 is admitted.)</small></p> <p>11 (Employer's MSO-4 received.)</p> <p>12 HEARING OFFICER SCHAEFER: <small>(The hearing is MSO-4.)</small></p> <p>13 MR. FRANK: It's titled notice and acknowledgement of pay</p> <p>14 rate and payday.</p> <p>15 (Employer's MSO-5 identified.)</p> <p>16 THE WITNESS: Yes.</p> <p>17 BY MR. FRANK:</p> <p>18 Q Did you receive this document?</p> <p>19 A Yes, I did.</p> <p>20 Q Did you receive it on or about October 26, 2015?</p> <p>21 A Yes, I did.</p> <p>22 Q Does it accurately reflect what your rate of pay was going</p> <p>23 to be?</p> <p>24 A Yes.</p> <p>25 Q Does it accurately reflect your overtime rate?</p>
<p style="text-align: right;">Page 329</p> <p>1 MR. FELSTINER: <small>(The document speaks for itself to the</small></p> <p>2 extent the question is asking the witness to testify as to the</p> <p>3 legal issue here.</p> <p>4 BY MR. FRANK:</p> <p>5 Q When you filled this out did you understand that your</p> <p>6 employer was going to be MSO of Kings County?</p> <p>7 HEARING OFFICER SCHAEFER: <small>(The MSO-5 is received.)</small></p> <p>8 because I'm curious where you're -- did you put that stamp --</p> <p>9 THE WITNESS: No, I did not.</p> <p>10 HEARING OFFICER SCHAEFER: <small>(The MSO-5 is received.)</small></p> <p>11 know if that stamp was there when you signed the document?</p> <p>12 THE WITNESS: <small>(That stamp was not there when I signed the</small></p> <p>13 document.</p> <p>14 BY MR. FRANK:</p> <p>15 Q Was the employer ID number on the document?</p> <p>16 HEARING OFFICER SCHAEFER: <small>(The MSO-5 is received.)</small></p> <p>17 THE WITNESS: I don't know if that was there. I actually</p> <p>18 filled out this form online and then I printed it out and I</p> <p>19 signed it.</p> <p>20 BY MR. FRANK:</p> <p>21 Q Did you receive a document that set forth your rates of</p> <p>22 pay?</p> <p>23 A I'm sorry. What did it say?</p> <p>24 MR. FRANK: Did you receive a document -- let me have this</p> <p>25 marked as MSO-5.</p>	<p style="text-align: right;">Page 331</p> <p>1 A Yes.</p> <p>2 Q Does it accurately identify your employer as MSO of Kings</p> <p>3 County?</p> <p>4 A Yes.</p> <p>5 MR. FELSTINER: It speaks for itself. Objection.</p> <p>6 MR. FRANK: I move Exhibit 5.</p> <p>7 MR. FELSTINER: No objection to the introduction.</p> <p>8 HEARING OFFICER SCHAEFER: <small>(The MSO-5 is received.)</small></p> <p>9 pay or is this the rate of pay you had when you first started?</p> <p>10 THE WITNESS: This is when I first started.</p> <p>11 HEARING OFFICER SCHAEFER: <small>(The MSO-5 is received.)</small></p> <p>12 more than that right now?</p> <p>13 THE WITNESS: Yes.</p> <p>14 HEARING OFFICER SCHAEFER: <small>(The MSO-5 is received.)</small></p> <p>15 evidence.</p> <p>16 (Employer's MSO-5 received.)</p> <p>17 MR. FRANK: Can I have this marked as MSO-6?</p> <p>18 (Employer's MSO-6 identified.)</p> <p>19 MR. FRANK: I believe what I've marked as MSO-6 is the</p> <p>20 same form as an exhibit that was admitted yesterday.</p> <p>21 MS. WILCOX: Which document? MSO-6 is what?</p> <p>22 MR. FRANK: It is an earnings statement.</p> <p>23 MS. WILCOX: We don't have that. We have five pieces of</p> <p>24 paper that was given to us and that was not one of them.</p> <p>25 MR. FRANK: I didn't?</p>

Page 332	Page 334
<p>1 MS. WILCOX: No. 2 (Pause.) 3 MR. FRANK: I gave you two withholdings. I gave you the 4 state withholding, too? 5 MS. WILCOX: Yes. 6 MR. FRANK: My apologies. Again on MSO-6 we redacted all 7 of the numbers. 8 BY MR. FRANK: 9 Q If you look at the bottom do you see your name? 10 A Yes. 11 Q And is this the paycheck that you received from MSO Kings 12 County? 13 A It's a pay stub. 14 Q Pay stub for pay date March 10, 2016? 15 A Yes. 16 MR. FRANK: I offer that. 17 MR. FELSTINER: No objection, though the Union's position 18 with respect to the other documents applies to this document as 19 well that were produced the same. The Union still is not 20 waiving its right to other documents. 21 (Employer's MSO-6 received.) 22 HEARING OFFICER SCHAEFER: <small>Any objection?</small> 23 I do want to note that we have another similar pay stub in the 24 record as of yesterday. So we don't need every employee's pay 25 stub in the record, I just want to clarify. Go ahead.</p>	<p>1 A Yes, I do. 2 Q What is this document? 3 A Employee's withholding allowance certificate. 4 Q From New York State? 5 A Yes. 6 Q Is that your signature? 7 A Yes, it is. 8 MR. FRANK: I move to admit MSO-7. 9 HEARING OFFICER SCHAEFER: <small>Any objection?</small> 10 MR. FELSTINER: No. 11 (Employer's MSO-7 received.) 12 MR. FRANK: Have I moved on all of MSO-3, 4, 5, and 6, 13 and 7? 14 HEARING OFFICER SCHAEFER: <small>Any objection?</small> 15 the event that they weren't. 16 BY MR. FRANK: 17 Q Have you ever met Jennifer Donovan? 18 A I have never met Jennifer Donovan. 19 Q Other than Ms. Kennedy and Ms. Wood or Ms. Dinnerstein, 20 have you met any individuals who worked in human resources? 21 MR. FELSTINER: I think there is a representation as to 22 where Ms. Dinnerstein works in that question. It's assuming 23 facts not in evidence. 24 MR. FRANK: I stand corrected. 25 BY MR. FRANK:</p>
Page 333	Page 335
<p>1 MR. FRANK: In terms of production, do you want -- 2 HEARING OFFICER SCHAEFER: <small>Production is a different</small> 3 issue. 4 MR. FRANK: Do you want production of pay stubs from every 5 employee? That can be done. I don't think it's necessary, 6 but -- 7 HEARING OFFICER SCHAEFER: <small>Is that what you're asking?</small> 8 subpoenaed that's a different issue. I'm just talking about 9 what's going in the record. I just don't need any more pay 10 stubs in the record is all. 11 MR. FRANK: Can we go off the record? 12 HEARING OFFICER SCHAEFER: <small>Is that what you're asking?</small> 13 said. 14 MR. FRANK: Can we go off the record? 15 HEARING OFFICER SCHAEFER: <small>Is that what you're asking?</small> 16 I spoke out of turn. 17 MR. FRANK: If they're not for the record, we're not 18 producing them. 19 HEARING OFFICER SCHAEFER: <small>I take it back.</small> 20 MR. FELSTINER: Are we still on? 21 HEARING OFFICER SCHAEFER: <small>Is that what you're asking?</small> 22 MR. FRANK: Let me have this marked as MSO-7. 23 (Employer's MSO-7 identified.) 24 BY MR. FRANK: 25 Q Do you recognize this document?</p>	<p>1 Q Ms. Dinnerstein is the office manager? 2 A Correct. 3 Q Have you met any other supervisors in the office at One 4 Prospect Park West? 5 A No, I have not. 6 Q Other than Ms. Kennedy, have you met any other human 7 resources representative of MSO Brooklyn Urology -- MSO of 8 Kings County? 9 A No, I have not. 10 Q How many times have you met Ms. Kennedy? 11 A I believe two times at human resources and two times in 12 Prospect Park West. 13 Q When was the first time you met Ms. Kennedy at Prospect 14 Park West? 15 A After the petition with the Union. 16 Q And prior to that when did you meet with Ms. Kennedy at 17 Prospect Park West? 18 A The day I was hired. 19 Q And when did you meet with Ms. Kennedy on 9th Street? 20 A That was the day I was hired. 21 Q Was that at her second floor office on 9th Street? 22 A That's correct. 23 (Pause.) 24 BY MR. FRANK: 25 Q When you applied for the position, did you print out the</p>

Page 336	Page 338
<p>1 application from the web site?</p> <p>2 A When I applied for the position, no.</p> <p>3 Q When you got an employment application, where did you get</p> <p>4 the application?</p> <p>5 A On the web site.</p> <p>6 Q And you completed it on the web site?</p> <p>7 A Yes.</p> <p>8 HEARING OFFICER SCHAEFER: what was the web site?</p> <p>9</p> <p>10 THE WITNESS: New York Methodist.</p> <p>11 MR. FRANK: I don't have a copy of that. We will produce</p> <p>12 one. Can we go off the record a second?</p> <p>13 HEARING OFFICER SCHAEFER: Yeah.</p> <p>14 (Pause off the record from 2:57 p.m. to 2:58 p.m.)</p> <p>15 BY MR. FRANK:</p> <p>16 Q Did you ask permission to be off today? Who did you ask?</p> <p>17 HEARING OFFICER SCHAEFER: don't want the employees to feel like there is a problem with</p> <p>18 being here. And I understand that's not --</p> <p>19</p> <p>20 MR. FRANK: There is absolutely no problem.</p> <p>21 HEARING OFFICER SCHAEFER: you're asking the question, but I want everyone to understand</p> <p>22 there is nothing wrong with employees being here today. So you</p> <p>23 can ask who did you ask.</p> <p>24</p> <p>25 MR. FRANK: I'm going to explicitly say there is nothing</p>	<p>1 the grocery store.</p> <p>2 MR. FRANK: That's why I was asking the question.</p> <p>3 HEARING OFFICER SCHAEFER: served, no. She could have been served anywhere. She could</p> <p>4</p> <p>5 have been served at Yankee Stadium. It doesn't matter.</p> <p>6 MR. FRANK: But the point would be that the Union chose</p> <p>7 not to serve other people at that location.</p> <p>8 MR. FELSTINER: If that's the line then we can go on</p> <p>9 subpoena record.</p> <p>10 MR. FRANK: I agree with you. I'm sorry. That should be</p> <p>11 stricken from this record for the other record, I agree. No</p> <p>12 further questions.</p> <p>13 MR. FELSTINER: I object to the relevance obviously.</p> <p>14 HEARING OFFICER SCHAEFER: MR. FRANK: No other questions.</p> <p>15</p> <p>16 HEARING OFFICER SCHAEFER: of questions.</p> <p>17</p> <p>18 THE WITNESS: Sure.</p> <p>19 HEARING OFFICER SCHAEFER: the day off and not gotten the day off?</p> <p>20</p> <p>21 THE WITNESS: No.</p> <p>22 HEARING OFFICER SCHAEFER: have that day off.</p> <p>23</p> <p>24 THE WITNESS: No.</p> <p>25 HEARING OFFICER SCHAEFER:</p>
Page 337	Page 339
<p>1 wrong with anybody being here today --</p> <p>2 HEARING OFFICER SCHAEFER: MR. FRANK: -- from the Employer's point of view.</p> <p>3</p> <p>4 BY MR. FRANK:</p> <p>5 Q Did you ask permission to be off today?</p> <p>6 A Did I ask for permission to be off today?</p> <p>7 Q Yes.</p> <p>8 A No, I did not.</p> <p>9 Q Did you tell somebody you were going to be off today?</p> <p>10 A Yes, I did.</p> <p>11 Q Who did you tell?</p> <p>12 A Susan Dinnerstein.</p> <p>13 Q Did she approve your request to be off today?</p> <p>14 A Yes, she did.</p> <p>15 Q Were you subpoenaed to be here today?</p> <p>16 A Yes, I was.</p> <p>17 Q Who gave you the -- where were you served with the</p> <p>18 subpoena?</p> <p>19 HEARING OFFICER SCHAEFER: an issue. What's the relevance? Well, I'll ask you what the</p> <p>20</p> <p>21 relevance is.</p> <p>22 MR. FRANK: If she was served at One Prospect Park where</p> <p>23 she works then other people from MSO could have been served</p> <p>24 there, too.</p> <p>25 HEARING OFFICER SCHAEFER:</p>	<p>1 like a set number of days per year or you accrue it per week?</p> <p>2 How do you get your leave?</p> <p>3 THE WITNESS: Honestly, I'm not really sure. Since I just</p> <p>4 started working there I haven't taken any time off. I'm not</p> <p>5 sure.</p> <p>6 HEARING OFFICER SCHAEFER: time you've taken time off?</p> <p>7</p> <p>8 THE WITNESS: Yeah, well, I actually was out sick two</p> <p>9 times.</p> <p>10 HEARING OFFICER SCHAEFER: you're sick?</p> <p>11</p> <p>12 THE WITNESS: Yes.</p> <p>13 HEARING OFFICER SCHAEFER: questions. Are you good?</p> <p>14</p> <p>15 MR. FELSTINER: I have a few.</p> <p>16 HEARING OFFICER SCHAEFER: REDIRECT EXAMINATION</p> <p>17</p> <p>18 BY MR. FELSTINER:</p> <p>19 Q Ms. Feliciano, in your testimony you ran through a list of</p> <p>20 procedures that the doctors perform. I'm going to ask you</p> <p>21 about those. So ESWL, you used an acronym or abbreviation.</p> <p>22 How is that pronounced?</p> <p>23 A Ezwall (sic).</p> <p>24 Q ESWL, that relates to kidney stones?</p> <p>25 A That's correct.</p>

<p style="text-align: right;">Page 340</p> <p>1 Q Is there any other kidney stone procedures that are not 2 ESWL procedures? 3 A Yes. 4 Q What are those? 5 A I know lithotripsy. The other procedures are done in the 6 hospital. I'm not exactly sure. 7 Q Who performs them? 8 A The doctors from the office. 9 Q Doctors that also work in your office? 10 A Correct. 11 Q Vasectomies? 12 A Vasectomies are done at our office. 13 Q At your office? 14 A Yes. 15 Q Are any performed in the hospital -- let me rephrase that. 16 I'm sorry. Do doctors from your office perform any vasectomies 17 on Brooklyn Urology patients at the hospital? 18 MR. FRANK: Objection on relevance grounds. She said she 19 only works on patients at this location. What doctors do at 20 other locations -- 21 HEARING OFFICER SCHAEFER: <small>objec. 31.12.12 page 340</small> 22 MR. FRANK: But there's no foundation because she doesn't 23 work there. 24 HEARING OFFICER SCHAEFER: <small>objec. 31.12.12 page 340</small> 25 has some -- do you arrange for some, for any part of a surgery</p>	<p style="text-align: right;">Page 342</p> <p>1 MR. FRANK: I'm sorry, I didn't hear what it was. 2 THE WITNESS: TUNA. 3 HEARING OFFICER SCHAEFER: <small>Like T-U-N-A?</small> 4 THE WITNESS: Yeah. 5 HEARING OFFICER SCHAEFER: <small>Witness being questioned</small> 6 oriented, what's a TUNA? 7 THE WITNESS: I haven't assisted in that procedure, but 8 it's transurethral something. I'm not sure. 9 HEARING OFFICER SCHAEFER: Okay. 10 MR. FRANK: Is it T-U-V-A? 11 HEARING OFFICER SCHAEFER: <small>T-U-N-A.</small> 12 THE WITNESS: T-U-N-A, yeah. 13 HEARING OFFICER SCHAEFER: <small>Like tuna fish.</small> 14 MR. FRANK: Like the fish? Transurethral. 15 BY MR. FELSTINER: 16 Q All right. I'm not going to ask anything else about that. 17 But I do have a different topic. Does the urology facility at 18 One Prospect Park West receive referrals of patients from New 19 York Methodist Hospital? 20 A Yes. 21 Q How often does that happen? 22 A Maybe a few a day. 23 Q How do you know they are referred from New York Methodist 24 Hospital? 25 A The patients come in with a packet that has their</p>
<p style="text-align: right;">Page 341</p> <p>1 of a Brooklyn Urology patient that occurs at -- 2 THE WITNESS: No. 3 HEARING OFFICER SCHAEFER: <small>objec. 31.12.12 page 340</small> 4 THE WITNESS: No. 5 HEARING OFFICER SCHAEFER: <small>objec. 31.12.12 page 340</small> 6 witness. 7 MR. FELSTINER: Fair enough. 8 BY MR. FELSTINER: 9 Q Circumcisions at your office? 10 MR. FRANK: What's the question? 11 BY MR. FELSTINER: 12 Q Are circumcisions performed at your office? 13 A Yes, they are. 14 Q Cystoscopies, if I'm pronouncing that right? 15 A Yes, they are. 16 Q Botox? 17 A Yes, they are. 18 Q Prostate biopsy? 19 A Yes. 20 Q Are there any others that I've left out? 21 A There is a procedure TUNA. 22 MR. FRANK: Could you speak a little louder, please? 23 BY MR. FELSTINER: 24 Q Did you say TUNA? 25 A TUNA. That's also done at the office.</p>	<p style="text-align: right;">Page 343</p> <p>1 discharge papers from New York Methodist and they were asked to 2 follow-up at the office. 3 Q If you know, who refers them? 4 A I believe it's the doctors. 5 Q Can you be more specific about the doctors? 6 A Well, they'll tell me that they saw maybe Dr. Colon, they 7 saw him at the hospital and they were told to come for a 8 follow-up at our office. 9 Q Do the doctors that also work at that urology practice? 10 A Correct. 11 Q Do you have an annual physical -- well, you've only been 12 there six months. 13 A Yes. 14 Q Strike that. You testified about punching in and out. Do 15 you know the name of the system that you use to punch in and 16 out? 17 A Kronos. 18 Q Do you still have the identification card that we reviewed 19 during Mr. Frank's examination? 20 A Yes. 21 Q Is that the identification card that you were issued when 22 you began employment? 23 A Yes. 24 Q Where did you go to get it? 25 A New York Methodist, human resources.</p>

<p style="text-align: right;">Page 344</p> <p>1 Q That's located on?</p> <p>2 A 9th Street.</p> <p>3 Q Who did you see there?</p> <p>4 A To get the ID?</p> <p>5 Q Yes.</p> <p>6 A I got the ID from the receptionist at the front.</p> <p>7 Q On which floor?</p> <p>8 A On the second floor.</p> <p>9 MR. FELSTINER: I don't know how we're going to do this</p> <p>10 yet but the Union would like to move to introduce that piece of</p> <p>11 evidence into the record.</p> <p>12 MR. FRANK: No objection.</p> <p>13 MR. FELSTINER: Maybe we can make a photocopy.</p> <p>14 HEARING OFFICER SCHAEFER: <small>He'll make a photocopy.</small></p> <p>15 MR. FRANK: Why don't we mark that as Union's whatever is</p> <p>16 next.</p> <p>17 HEARING OFFICER SCHAEFER: 29.</p> <p>18 (Petitioner's P-29 identified.)</p> <p>19 MR. FRANK: Can you make a color copy of that?</p> <p>20 HEARING OFFICER SCHAEFER: <small>He'll make a photocopy.</small></p> <p>21 it and print the picture. That's how we do colors.</p> <p>22 MR. FRANK: Is there anything that has to be redacted on</p> <p>23 that before we make pictures.</p> <p>24 MR. KRUEGER: Like the ID number.</p> <p>25 HEARING OFFICER SCHAEFER: <small>He'll make a photocopy.</small></p>	<p style="text-align: right;">Page 346</p> <p>1 Q From what web site did you print it out, if you recall?</p> <p>2 A From the Methodist web site.</p> <p>3 Q How did you know to go to the Methodist web site?</p> <p>4 A Well, there is -- you have to have a username and</p> <p>5 password, and that's where you fill out the application and</p> <p>6 fill out all the hiring paperwork.</p> <p>7 Q You accessed this form through the Methodist web site as</p> <p>8 well?</p> <p>9 A Correct.</p> <p>10 Q And MSO-7, do you have that?</p> <p>11 A I'm not sure what is 7?</p> <p>12 Q The employee's withholding allowance certificate.</p> <p>13 A Yes.</p> <p>14 Q Did you get this on the same online location?</p> <p>15 A Correct.</p> <p>16 Q Do you see two-thirds of the way down the page, the stamp</p> <p>17 that says MSO of Kings County?</p> <p>18 A Yes.</p> <p>19 Q Did you affix that stamp?</p> <p>20 A No, I did not.</p> <p>21 Q Was it already on the form when you filled it out online?</p> <p>22 A No, it was not.</p> <p>23 Q You testified that Susan Dinnerstein or Susan Wood speaks</p> <p>24 to you about non-patient care matters?</p> <p>25 A Yes.</p>
<p style="text-align: right;">Page 345</p> <p>1 the back. I could just do the front.</p> <p>2 MR. FELSTINER: I'd like to examine, too.</p> <p>3 HEARING OFFICER SCHAEFER: <small>He'll make a photocopy.</small></p> <p>4 the back has already been -- it's on every other document.</p> <p>5 MR. FRANK: What about the barcode?</p> <p>6 (Pause.)</p> <p>7 MR. FELSTINER: Yeah, it should be the whole -- both.</p> <p>8 MR. FRANK: You need the front and back, that does say</p> <p>9 Brooklyn Urology.</p> <p>10 HEARING OFFICER SCHAEFER: <small>He'll make a photocopy.</small></p> <p>11 MR. FELSTINER: Yeah, I want both sides of both cards.</p> <p>12 HEARING OFFICER SCHAEFER: Okay.</p> <p>13 MR. FRANK: For the record the green dot, if anybody wants</p> <p>14 to know, it's a flu vaccine.</p> <p>15 HEARING OFFICER SCHAEFER: <small>He'll make a photocopy.</small></p> <p>16 BY MR. FELSTINER:</p> <p>17 Q Do you still have MSO-4 up there, the W-4 form?</p> <p>18 A I have it, yes.</p> <p>19 Q You said you got it online. Can you describe that a</p> <p>20 little more?</p> <p>21 A I filled out all my paperwork online and then I printed</p> <p>22 it. I came with it to the human resources department and I</p> <p>23 submitted it there.</p> <p>24 Q Who did you submit it to?</p> <p>25 A To Joanne Kennedy.</p>	<p style="text-align: right;">Page 347</p> <p>1 Q What matters would those be?</p> <p>2 A Anything in regards to like supplies. She arranges or</p> <p>3 tries to arrange our lunch breaks.</p> <p>4 Q Does she give you an instruction about when to take a</p> <p>5 break?</p> <p>6 A She just like tells us to work out a plan so we usually</p> <p>7 arrange it amongst ourselves.</p> <p>8 Q Who is ourselves?</p> <p>9 A Me and my co-workers or the PAs, the medical assistants,</p> <p>10 and the other LPNs.</p> <p>11 Q What has she spoken to you about with respect to supplies?</p> <p>12 A She asks me what supplies need to be ordered or when the</p> <p>13 supplies are coming in, or if we're not getting the supplies.</p> <p>14 That's basically -- it's usually about supplies.</p> <p>15 Q Has she ever given you any directives with respect to</p> <p>16 non-patient care matters?</p> <p>17 A No.</p> <p>18 MR. FELSTINER: I don't have anything else.</p> <p>19 RECROSS EXAMINATION</p> <p>20 BY MR. FRANK:</p> <p>21 Q Did I misunderstand previously did you testify that Ms.</p> <p>22 Dinnerstein has at times told you to work in an office other</p> <p>23 than One Prospect Park?</p> <p>24 A Yes.</p> <p>25 HEARING OFFICER SCHAEFER: <small>He'll make a photocopy.</small></p>

Page 348

1 THE WITNESS: She has told me, yes.
2 BY MR. FRANK:
3 Q What offices has she directed you to go to other than One
4 Prospect Park?
5 A We have an office on Linden Boulevard. I usually go there
6 on Fridays for the past maybe month.
7 MR. FRANK: I have nothing further.
8 HEARING OFFICER SCHAEFER: Read out any words, Mr.
9 Feliciano.
10 (Witness excused.)
11 HEARING OFFICER SCHAEFER: Read out any words, Mr.
12 this, just the barcode and the ID?
13 MR. FRANK: Off the record?
14 HEARING OFFICER SCHAEFER: Yeah.
15 (Whereupon, at 3:27 p.m., the above-entitled matter was
16 adjourned.)
17

Page 349

1
2 C E R T I F I C A T E
3
4 This is to certify that the attached proceedings done before
5 the NATIONAL LABOR RELATIONS BOARD REGION 29
In the Matter of:
NEW YORK METHODIST HOSPITAL/MSO OF KINGS COUNTY, LLC,
Employer,
And
1199 SEIU, UNITED HEALTHCARE WORKERS EAST,
Petitioner.

6 Case No.: 29-RC-172398, 29-RC-172410
7 Date: April 7, 2016
8
9 Place: Brooklyn, New York
10
11 Were held as therein appears, and that this is the original
12 transcript thereof for the files of the Board
13
14
15 _____
16 Official Reporter

		253:9;320:11; 323:3	21;249:3;292:6; 305:4,6,9;306:18; 308:4;335:19,21; 344:2	additions (1) 258:20
1	2	3:27 (1) 348:15		address (7) 254:24;255:1; 277:22,25;288:25; 315:6;328:15
1 (2) 262:19;326:25	2 (2) 255:5;327:22	4	A	addressed (1) 276:1
1:00 (1) 318:22	2:09 (1) 320:2	4 (2) 330:5;334:12	abbreviation (1) 339:21	adjourned (1) 348:16
1:50 (1) 318:22	2:20 (1) 326:2	4:00 (1) 287:4	ability (1) 314:2	administrative (6) 298:1;303:22,25; 309:7,10,14
10 (3) 318:22;329:16; 332:14	2:40 (1) 326:2	435 (3) 244:19;248:21; 249:3	above (1) 287:9	admissible (2) 278:11;279:8
10:50 (1) 274:11	2:57 (1) 336:14		above-entitled (1) 348:15	admit (14) 247:12;249:8; 252:7;253:15;258:1; 260:23;262:2,23; 263:14;278:2,18; 279:20;319:2;334:8
100 (1) 273:20	2:58 (1) 336:14	5	absent (3) 291:15,19,22	admitted (6) 257:2;262:5; 319:11;330:7,10; 331:20
11 (1) 260:14	20 (3) 255:19,21,23		absolutely (2) 278:14;336:20	Adult (1) 296:11
11:17 (1) 274:11	2015 (13) 248:22,24;249:25; 287:19;289:1,4; 304:25;320:15; 327:3,6,13,22;330:20	5 (4) 262:19;330:5; 331:6;334:12	accept (1) 286:17	advance (1) 286:4
11:30 (1) 283:9	2016 (5) 241:6;288:16; 289:7;320:8;332:14	5:00 (3) 286:25,25;287:4	accepted (3) 308:5,7;331:14	adverse (1) 286:6
11:31 (1) 283:9	21 (3) 256:9;257:2,3	506 (1) 277:25	access (5) 252:19;254:20; 313:22,25;316:18	advise (2) 291:16;317:18
11:33 (1) 284:24	211 (1) 275:17	6	accessed (4) 253:1,2,11;346:7	affix (1) 346:19
11215-9008 (1) 278:1	21st (1) 241:6	6 (6) 259:8;300:11,12, 17,21;334:12	accessing (1) 260:15	again (5) 264:7;273:8;283:8; 301:20;332:6
11th (1) 249:5	22 (3) 257:12,15,17	6:00 (1) 287:4	accommodation (1) 256:5	against (2) 273:24;286:6
12 (1) 250:4	23 (4) 258:1,3,5,7	6404 (1) 249:14	accompanied (1) 272:1	ago (2) 275:5;316:9
12:00 (1) 284:24	24 (4) 260:23;261:8,10, 15	6th (15) 245:20,24;270:24; 277:25;288:24; 292:2,4,9,17,20; 293:1;309:9,10; 310:4,21	accompanying (1) 272:3	agree (3) 280:18;338:10,11
12:52 (1) 319:20	25 (3) 262:3,5,6		accrue (1) 339:1	agreed (1) 326:12
13 (3) 241:15,23,25	26 (4) 262:23,25;263:2; 330:20	7	accurate (5) 284:21;290:3; 310:25;314:6,18	ahead (7) 242:23;254:11; 280:5;284:18; 326:17;332:25; 339:16
14 (5) 246:8,17;247:20; 249:21,22	26th (3) 327:14,16,18	7 (3) 260:2;334:13; 346:11	accurately (3) 330:22,25;331:2	aid (1) 261:21
15 (6) 247:12;248:8; 250:4;327:3,6,12	27 (3) 263:14,22,23	7th (4) 249:3;288:25; 292:20;293:1	acknowledgement (1) 330:13	allergies (1) 317:17
15:00 (1) 277:25	28 (6) 278:3;282:25; 318:24,25;319:11,13		acknowledging (1) 279:3	allow (3) 280:18;302:11,25
15-minute (1) 305:10	29 (1) 344:17	8	acronym (1) 339:21	allowance (2) 334:3;346:12
15th (3) 306:21;321:5; 327:16	29-RC-171603 (2) 241:7;242:3	8:00 (1) 287:3	across (5) 245:20,24;246:5; 271:24;288:24	allowed (1) 286:5
16 (3) 249:8,18,19	2nd (14) 243:11;248:22,24; 249:3,25;287:21,23, 24;304:25;306:11,13, 14,15;321:3	9	activation (1) 255:6	almost (3) 269:15;318:12,15
17 (4) 251:18;252:8,11, 13		9:00 (2) 286:25,25	actual (3) 273:15,17;313:16	
17th (1) 275:6		9:57 (1) 241:2	actually (9) 245:16;268:24; 270:17;280:11; 281:9;290:17; 329:17;339:6,8	
18 (4) 253:16,17,20,22	3	9th (14) 244:18,19;248:19,	add (1) 241:5	
19 (1) 255:10	3 (3)			

along (2) 268:8;286:16	282:20		317:18,19	
always (4) 265:9;266:1,2; 278:10	assess (1) 243:20	B	blue (1) 271:15	C
amongst (4) 267:22,24,25; 347:7	assign (2) 269:10;291:3	back (14) 250:13;273:11; 274:12;279:20; 283:10;286:17; 301:24;304:19; 318:22;333:15,19; 345:1,4,8	board (6) 275:14;276:9; 278:11;279:8; 280:21;281:9	call (13) 242:7;243:23; 258:19;291:15,18,21; 305:25;306:6,9; 307:3,4;317:13; 339:10
anesthesia (3) 270:11;317:21,23	assigned (7) 266:10,11,18,19; 267:10,12,18	backtrack (1) 306:17	board's (1) 297:8	called (5) 290:6;306:8,12; 307:1;313:4
anesthesiologist (1) 318:2	assignment (1) 291:12	badge (1) 323:23	booklet (1) 256:5	calling (2) 286:4;314:21
Anna (1) 267:6	assist (9) 265:23;266:4; 267:16;268:2;294:1, 22,22;312:14;316:2	ballpark (1) 243:3	borne (2) 260:15;261:4	calls (4) 242:9;316:2; 317:10,12
annual (1) 343:11	assistant (13) 243:14,16,19; 265:15;266:25; 267:1;296:7,8;297:5; 307:24;311:1,10; 327:21	bank (1) 338:25	boss (1) 277:4	came (2) 286:17;345:22
apologies (1) 332:6	assistants (20) 267:25;268:1,24; 297:10;298:1; 303:22,25;309:7,10, 14,20,22;312:11; 315:19,21,23;316:7; 325:21,21;347:9	barcode (2) 345:5;348:12	botox (2) 294:9;341:16	campaign (1) 278:10
application (11) 283:15,16,18,21; 301:15,17;302:9; 336:1,3,4;346:5	assisted (1) 342:7	based (2) 285:5;302:12	bottom (12) 247:22;248:2,3; 249:13;256:7;259:5, 17;274:21,21; 276:25;327:9;332:9	campaigning (1) 281:16
applied (7) 283:14;301:11; 302:1,2;307:25; 335:25;336:2	assisting (5) 265:17;268:19; 295:1,5;312:10	basically (1) 347:14	Boulevard (8) 289:12,14,15,20; 290:4,16;291:13; 348:5	Can (46) 243:18;247:25; 264:7,23;271:21,23; 272:3,18;273:3; 274:5;276:1;284:17; 285:20;286:11; 288:21;291:20; 300:17;302:20,25; 303:3;306:11,17; 315:17,18;318:4,14, 23;323:19,22;324:2; 325:25;326:5;327:2; 328:9;331:17;333:5, 11,14;336:12,17,24; 338:8;343:5;344:13, 19;345:19
applies (1) 332:18	assists (2) 311:23;312:23	bathroom (2) 298:12,13	break (10) 274:8;283:25; 318:6,9,13,14,18,20; 319:14;347:5	card (4) 323:15,17;343:18, 21
apply (2) 283:13;301:9	Associates (2) 290:20,24	bathrooms (2) 298:9,10	breaking (1) 294:7	cardiology (1) 290:22
appointments (2) 243:24;317:13	assumed (1) 310:12	began (3) 264:12,15;343:22	breaks (1) 347:3	cards (3) 281:17,20;345:11
approached (1) 320:9	Assumes (1) 298:23	beginning (3) 246:22;248:11; 267:2	Brent (1) 265:2	care (8) 241:8;261:21; 297:8;299:22; 314:19;326:22; 346:24;347:16
appropriate (4) 285:16,23;286:18, 20	assuming (1) 334:22	begins (1) 260:14	brief (1) 245:16	carefully (2) 281:19,23
approve (1) 337:13	attached (1) 319:3	behalf (1) 285:24	briefly (1) 261:25	case (8) 241:7,7;249:20; 278:13,23;283:4; 285:16;286:13
approved (1) 323:10	attend (5) 248:10,18,24; 249:5,6	belong (2) 284:20;298:3	Brooklyn (16) 278:1;286:15; 287:10;290:7; 293:14,17,18;296:11; 297:14;308:8;324:8; 327:21;335:7; 340:17;341:1;345:9	catheter (1) 243:21
approximate (1) 306:11	attended (2) 269:24;281:12	belongs (1) 286:13	building (15) 290:20,21;292:2,9, 16,22;293:6,8,12; 305:7,9;308:15,15, 18;309:18	cell (2) 307:6,7
Approximately (4) 288:12,14;292:23; 321:24	authorize (1) 328:23	benefit (1) 253:12	bulletin (1) 281:9	center (4) 264:15,24;296:11;
Approximation (1) 306:22	authorized (1) 296:21	besides (2) 251:9;269:24	bunch (1) 313:16	
area (2) 297:24,25	availability (1) 244:1	billing (1) 325:9		
arguing (1) 276:3	available (1) 321:8	biopsies (1) 294:9		
around (3) 250:4;262:19; 306:21	Avenue (6) 249:3,3;288:25; 292:7,20;293:1	biopsy (1) 341:18		
arrange (4) 270:16;340:25; 347:3,7	aware (5) 308:12,14,16; 312:5;324:8	birth (3) 247:15,17,21		
arranges (1) 347:2		bit (1) 252:5		
aside (1) 310:8		bladder (2) 243:23;294:9		
asserted (1)		blood (7) 246:24,25;260:15; 261:4;297:25;		

324:6 centralized (3) 275:15;278:13; 280:10 cerner (3) 316:15,17,20 certain (1) 270:14 Certainly (1) 275:23 certificate (3) 296:15;334:3; 346:12 certification (2) 326:21,25 cetera (1) 253:13 chance (3) 242:22;246:10; 274:15 change (2) 265:20;293:9 changes (2) 243:21;265:10 characterization (2) 310:11;314:22 Charity (1) 261:21 chart (3) 314:7,10,16 check (2) 263:15;317:17 checked (2) 264:20,21 checking (1) 318:11 checklist (3) 255:18;263:8; 264:20 chemicals (1) 258:18 choose (2) 286:1,8 chose (1) 338:6 circles (1) 262:19 circumcisions (3) 294:8;341:9,12 clarification (1) 312:7 clarify (5) 245:23;279:18; 304:20;311:16; 332:25 clarifying (2) 247:2;291:6 class (2) 325:13,15 clear (1) 297:13 clearly (1) 327:20	clerical (3) 251:5;270:4,9 CLERK (3) 300:8,10,12 clients (1) 285:24 clinic (1) 244:6 Clinical (12) 243:14,16,18; 296:7,8;297:5,9; 299:10,17,19;307:24; 327:21 close (1) 321:24 clothes (1) 293:9 codes (1) 258:18 collaborate (1) 270:17 colleagues (1) 266:23 collect (1) 263:19 Collon (2) 265:1;289:17 Colon (1) 343:6 color (1) 344:19 colors (1) 344:21 combination (1) 265:7 coming (4) 270:21;319:16,17; 347:13 comment (2) 279:18;286:18 comments (2) 284:19;286:16 common (2) 275:14;278:13 communicated (1) 286:10 communicating (1) 280:13 communication (4) 259:13;260:2; 275:21,24 communications (1) 282:22 complete (1) 301:15 completed (3) 248:3;301:17; 336:6 compliance (1) 286:9 comply (1) 318:19 computer (9)	273:23;313:21,22, 25;324:12,15,16,17, 23 concerning (4) 275:24;278:8,12; 282:21 conference (2) 248:21;249:1 confidence (1) 314:4 confine (1) 320:16 confirm (2) 243:24;317:13 confused (1) 306:15 connect (1) 276:20 connected (1) 280:10 connection (2) 276:21,22 considering (1) 276:10 considers (1) 275:14 contact (1) 293:11 contacted (3) 323:5,8,9 CONTD (1) 249:23 contends (1) 272:16 contents (2) 282:12;283:3 continue (5) 285:20;286:11,22; 291:1;320:4 CONTINUED (1) 320:6 control (2) 275:15;278:13 Conveniently (1) 345:15 conversation (1) 308:4 conversations (1) 321:14 copies (1) 256:19 copy (12) 246:15;256:17,17; 283:21,24;300:6,13; 301:23;313:20; 328:11;336:11; 344:19 core (1) 280:17 corrected (1) 334:24 correctly (1) 258:2	Counsel (9) 280:8;284:4,8; 285:6,15,23;303:6; 326:12;328:11 counsel's (2) 286:12,18 count (1) 265:3 County (23) 277:22;283:13,19; 300:21,23;301:4,5,6, 10,12,14,18;305:12, 22;307:11,14;310:9; 328:25;329:6;331:3; 332:12;335:8;346:17 couple (2) 271:8;338:16 course (1) 255:3 Court (1) 280:4 cover (1) 299:13 covered (7) 258:24;259:23; 260:11;261:12,16,23; 326:4 coworker (1) 267:6 coworkers (2) 266:19;267:25 co-workers (1) 347:9 credit (1) 257:10 critical (1) 275:24 cross (1) 292:19 cross- (1) 284:9 CROSS-EXAMINATION (3) 283:11;286:22; 320:6 cross-examine (1) 286:1 curious (1) 329:8 current (2) 286:18;331:8 currently (1) 307:19 cystoscopies (2) 294:9;341:14	306:15;321:2,9; 327:5;332:14 dated (3) 241:6;327:3,15 day (26) 257:11,24;258:17; 263:9,12;264:14,15; 265:5;267:2,12; 289:2,3,4,7;304:2; 305:18;306:25; 308:22;317:1; 324:21;335:18,20; 338:20,20,23;342:22 days (13) 265:6;281:5;288:4, 19,23;291:4;295:8; 306:10;307:1; 309:12;317:2;323:4; 339:1 deal (2) 257:1;299:19 deals (1) 293:24 December (1) 289:4 decide (1) 267:22 decisions (1) 280:17 degree (2) 296:12,14 denying (1) 286:22 department (7) 244:18;250:14; 263:8;264:12;305:4; 308:12;345:22 departments (1) 250:15 depending (2) 270:13;290:12 depends (2) 287:4;294:14 deposit (1) 300:3 describe (5) 243:18;264:23; 272:3;313:9;345:19 described (3) 259:23;261:5; 311:2 desk (4) 270:19;298:2; 316:23;317:8 detail (1) 342:5 determines (1) 267:21 determining (1) 280:14 diagnose (3) 316:4,5,6 diagnosis (1)
				D
				daily (3) 270:3,8;316:25 date (13) 247:15,17,21; 248:21;254:23; 287:20,20;288:11;

313:11 dialysis (1) 290:22 Different (11) 265:6;275:2;288:5; 290:21,21;313:6; 315:15;333:2,8; 341:5;342:17 Dinnerstein (38) 244:13,21;269:6,7, 25:270:23;275:1,10, 17;276:12;279:22; 280:1,25;282:2; 291:7,10,16,18,22; 299:23;305:14,16,17, 21;306:1,5,7,24; 320:9;322:23;323:9; 334:19,22;335:1; 337:12;339:10; 346:23;347:22 dire (2) 249:10,11 DIRECT (3) 242:24;249:23; 300:3 directed (3) 303:7;321:8;348:3 directions (5) 255:6;260:14; 299:23;304:5;315:23 directives (1) 347:15 director (1) 284:12 discharge (5) 243:25;268:5,6,9; 343:1 discharging (2) 268:12,15 disciplined (2) 295:10;324:9 discuss (2) 298:19;322:10 discussed (7) 279:22;280:1; 281:1;298:21,25; 301:20;308:3 discussing (1) 284:3 discussion (1) 284:12 discussions (1) 275:10 disprove (1) 280:12 dispute (3) 275:16;282:19; 297:4 distance (1) 277:6 distinguishing (1) 241:18 distribute (1)	281:7 doctor (19) 265:21,21;266:18, 18,21,22;267:11,19, 21,23;268:4,7; 270:15;273:11,12,22; 289:15;298:6;312:10 doctors (31) 264:23,25;265:4,5, 7,11;267:12;269:10; 270:14,15;273:14; 282:4;289:19;298:3; 310:16,22,23;311:13, 16;312:9;316:2,3; 317:24;339:20; 340:8,9,16,19;343:4, 5,9 document (84) 245:22;246:12,16; 247:5,12,15;248:1,7, 13,15;249:8,13; 251:17,20;252:3,4,6, 7,16;253:9,25;254:2, 16,19;255:14;256:1; 257:5,7,21;258:14; 259:23;261:12,14,16, 18,23;262:2,9;263:5, 16,25;274:3,17; 278:16,21,22,24; 279:5,7,9,14;281:2,5; 300:8,14;301:24; 303:2,15,17;319:2,3, 6,8,9,11,17;327:10, 12,18,20;329:1,10, 11,13,15,21,24; 330:2,18;331:21; 332:18;333:25; 334:2;345:4 documents (21) 241:20;251:15; 257:19;284:3,5,9; 285:5,6,8,11,14,24; 286:4,5;303:3,6; 319:3;326:10,12; 332:18,20 done (11) 245:20,24;246:23; 265:19;294:13; 318:12,15;333:5; 340:5,12;341:25 donor (1) 248:3 Donovan (9) 277:4;278:16,21; 279:11;323:5,6,9; 334:17,18 Donovan's (1) 277:18 door (2) 281:22;282:12 dot (1) 345:13 down (4)	264:4,8;303:13; 346:16 Dr (13) 244:24;245:9; 265:1,1,1,2;282:2; 289:17;290:2; 322:14,15,22;343:6 draw (1) 297:25 draws (1) 276:22 drink (1) 317:16 drop (1) 272:7 dropped (1) 272:25 drug (2) 245:17;246:15 during (24) 251:12,25;253:25; 254:19;255:17; 256:4;258:10,24; 259:2,21,23;260:9, 11;261:13,22,24; 262:13,21;266:8; 282:7;289:1,24; 316:11;343:19 duties (2) 243:18;309:8 Dyker (8) 289:24;290:1,4,18, 19;291:4,13;309:16	8;323:12 embarrass (1) 294:1 emergency (1) 255:18 employed (6) 292:2;293:4; 300:23;321:5,9; 324:9 Employee (12) 245:21,25;246:3,4; 247:4,9,10;251:23; 252:22;257:25; 297:8;333:5 employees (26) 250:1,5,5;252:2; 275:25;293:11; 297:10;302:15; 310:9,15,19,25; 311:9;312:8,15; 313:24;314:2,6,14, 18;321:5,9;324:8,25; 336:18,23 employee's (3) 332:24;334:3; 346:12 employer (9) 276:10;301:8; 303:13;326:4;327:4; 328:25;329:6,15; 331:2 employer's (11) 241:5;328:4,10; 330:11,15;331:16,18; 332:21;333:23; 334:11;337:3 employment (13) 246:22;248:11; 283:16,18,21;288:2; 301:15,17;310:16; 323:5;328:7;336:3; 343:22 end (1) 324:21 enforced (4) 263:18;264:1,2,19 enough (1) 341:7 enter (1) 324:16 entities (5) 278:25;279:1,4,14, 14 entitled (3) 281:22;321:16,18 entries (2) 314:3;316:15 Erica (1) 296:1 Erica's (1) 325:7 established (1) 280:21	establishing (1) 275:15 ESWL (5) 294:7,17;339:21, 24;340:2 E-S-W-L (2) 294:17,18 ESWLs (1) 294:14 et (1) 253:13 evaluation (1) 269:15 even (1) 323:13 event (1) 334:15 Everyone (5) 252:4,6;322:2,4; 336:22 evidence (18) 241:24;247:16; 248:7;252:12; 253:21;255:22; 257:16;258:6;261:2; 263:1;302:12,20; 319:12;328:3;330:3; 331:15;334:23; 344:11 exact (2) 288:25;301:21 exactly (3) 245:15;301:7; 340:6 EXAMINATION (6) 242:24;249:11,23; 339:17;343:19; 347:19 examine (2) 284:10;345:2 Except (1) 278:12 exception (1) 280:20 excluding (5) 282:3;310:22,23; 311:13,16 exclusively (2) 309:24;311:2 Excuse (1) 266:24 excused (1) 348:10 Exhibit (31) 241:25;248:8; 249:19,22;251:18; 252:8,13;253:22; 255:6,19,23;257:3, 17;258:7;259:9; 260:2,16;261:10; 262:6;263:2,23; 264:10;274:22; 278:2;300:5,6,21;
E				
		earnings (1) 331:22 eat (2) 298:15;317:16 Edward (1) 265:1 effect (1) 322:22 effective (1) 327:22 effort (3) 275:11,25;280:14 efforts (1) 279:22 either (3) 267:14,16;290:3 electronic (1) 273:19 electronically (1) 285:12 else (9) 243:23;244:23; 266:7;270:22;281:6; 288:19;321:16; 342:16;347:18 email (6) 254:20,24;255:1,6,		

302:18;319:13; 331:6,20 exists (1) 276:4 explain (3) 265:19;317:16; 325:17 explained (1) 261:13 explains (1) 257:10 explicitly (1) 336:25 extension (2) 249:13,14 extent (3) 276:4;329:2;333:7 Ezwall (1) 339:23	25;256:9;257:4,12, 18;258:1,8;259:12, 15,16;260:23; 261:11;262:2,8,23; 263:4,14,24;270:6,7; 271:2,12;272:12,14, 24;273:5,6;274:2,6,9, 14;275:9,13,21,23; 276:7,18,24;277:20; 278:2,12;279:21,25; 280:6,8,24;282:6,10, 13,15,17;283:4; 300:25;301:19; 302:6,9,18,20; 303:15;310:11; 311:13;318:9,11,13, 15;321:10;324:2; 326:16;328:1,12,14, 17;329:1;330:5,7,9; 331:5,7;332:17; 333:20;334:10,21; 338:8,13;339:15,18; 341:7,8,11,23; 342:15;344:9,13; 345:2,7,11,16;347:18	fish (2) 342:13,14 fit (1) 314:22 five (5) 248:3;265:3,3; 294:22;331:23 flip (1) 261:2 flood (5) 288:7,18;289:25; 309:11,12 floor (4) 249:3;335:21; 344:7,8 flu (4) 247:8,10;345:14, 15 follow (2) 255:8;324:25 following (1) 311:14 follow-up (5) 266:15;267:3,18; 343:2,8 form (7) 253:3;310:12; 329:18;331:20; 345:17;346:7,21 formal (1) 268:15 forms (4) 252:19;302:4,8; 328:6 forth (1) 329:21 foundation (5) 250:8;270:25; 277:8;321:10;340:22 four (8) 266:17,20;297:24; 298:1,3,6,9;304:1 FRANK (217) 241:22;242:2; 243:15;245:7; 246:19;247:13; 248:1,5;249:10,12, 17;250:8;252:10; 253:19;255:11,20; 256:14;257:14; 258:4;260:25;262:4, 24;263:15,21;270:5, 25;272:11;275:12,18, 19;276:15;277:8; 278:5,7,10,25;279:5, 7,12,16,24;280:3,20; 281:13,16,20;282:1; 283:12,24;284:13,15, 19,25;285:1,3,10,17, 19;286:12,20,23; 291:1,2,8,9;292:5,8, 14,15;293:22;294:10, 11,20;295:24;297:7,	12,23;298:5,24; 299:4,7,8,13,15; 300:6,9,11,13,17,19; 301:2,23,25;302:7, 14,22;303:2,5,12,21; 304:19,23;307:22; 310:17,18;311:7,8, 17,18;312:2,11,13, 19,22;315:1,2,7; 317:7;318:4,6,10,14, 18,23;319:4,6,8,16; 320:4,5,7,18,20,24; 321:13,22;322:20,21; 323:11,20;324:7; 325:14,25;326:5,8, 11,18,24;327:2,6,8, 24;328:5,9,11,13,15, 18,19;329:4,14,20, 24;330:4,13,17; 331:6,17,19,22,25; 332:3,6,8,16;333:1,4, 11,14,17,22,24; 334:8,12,16,24,25; 335:24;336:11,15,20, 25;337:3,4,22;338:2, 6,10,15;340:18,22; 341:10,22;342:1,10, 14;344:12,15,19,22; 345:5,8,13;347:20; 348:2,7,13 Frank's (1) 343:19 Friday (1) 287:12 Fridays (3) 267:7,8;348:6 front (9) 270:19;290:20; 298:2;316:23;317:8; 344:6,25;345:1,8 further (3) 283:4;338:12; 348:7	268:3,5;316:18 giving (2) 259:6;323:2 goes (5) 271:10,11;272:14; 276:20;311:6 Gonzalez (2) 316:22,24 Good (3) 256:25;318:20; 339:14 gowns (1) 271:14 gray (1) 264:5 green (1) 345:13 Griffin (1) 296:6 grocery (1) 338:1 grounds (2) 272:11;340:18 group (1) 281:8 Grunberger (10) 244:24;245:9; 265:1;269:25;282:2; 322:14,15,16,22; 323:9 guard (1) 251:3 guess (2) 249:8;262:12 guide (1) 251:23	
F	facility (4) 243:6;264:13; 265:11;342:17 fact (7) 308:21;310:3,8,19; 311:9;314:13;323:12 factor (1) 276:9 factors (1) 275:14 facts (2) 314:23;334:23 Fair (1) 341:7 fairly (2) 296:2,3 far (4) 272:19;292:25; 303:1;305:9 February (1) 288:15 feel (1) 336:18 Feliciano (12) 242:9,10,12,15; 243:1;246:10,21; 248:10;320:8;327:9; 339:19;348:9 F-E-L-I-C-I-A-N-O (1) 242:16 FELSTEINER (1) 242:9 Felstiner (130) 242:23,25;243:17; 245:8;246:9,16,20; 247:12,17,20,25; 248:9;249:7,24; 250:10,16,18;251:11, 19;252:7,15;253:10, 15,17,23;254:7,11, 12,15;255:10,13,19,	few (5) 281:5;306:10; 323:4;339:15;342:22 fields (1) 314:3 figure (1) 321:20 filed (1) 283:15 fill (8) 263:12;272:6; 302:4,8,15;328:6; 346:5,6 filled (5) 272:5;329:5,18; 345:21;346:21 filling (1) 303:9 film (3) 272:9;273:18,20 financial (1) 261:21 find (1) 303:5 fine (7) 254:5;274:1; 302:21;306:22; 314:23;318:8;332:22 fire (2) 258:18;259:7 first (23) 252:20;253:11; 256:6;258:20,24; 264:4,5,8,15;274:22; 285:14;295:17,17,20; 303:9;306:3;308:21; 321:2;330:2;331:9, 10;335:13;339:6		G	
			gave (5) 261:14;281:2; 332:3,3;337:17 generally (1) 243:18 generates (2) 313:13,15 generic (1) 294:5 girls (1) 268:21 given (10) 257:24;274:20; 275:4;276:2;281:24; 299:23;307:7;319:1; 331:24;347:15 gives (3)	H halfway (1) 264:4 hall (1) 271:24 Han (1) 297:17 hand (3) 242:11;266:6; 274:21 handed (1) 285:6 handwriting (5) 259:19;260:5,7; 262:14;263:10 handwritten (4) 241:16;258:20; 259:17;260:18 Hang (1) 318:24 happen (1) 342:21 happens (1) 273:10 hard (1)	

248:4 hazard (2) 259:13;260:2 Health (8) 245:21,25;246:3,5; 247:4,9,10;297:8 hear (3) 243:15;312:19; 342:1 HEARING (283) 241:3,8,10,12,14, 21,23;242:1,4,7,10, 13,17,21;245:23; 246:2,4,7,18;247:14, 17,19,24;248:2,6; 249:9,15,18,20; 250:12,17,22,25; 251:2,7,10,17;252:5, 9,11;253:4,6,8,16,18, 20;254:4,11;255:21; 256:10,13,15,20,22, 25;257:13,15;258:3, 5;259:10,14;260:24; 261:1,8;262:5,25; 263:19,22;271:1,9; 272:12,18,23;273:18, 22;274:1,5,7,10,12; 275:7,16,20,22; 276:6,11,17,19; 277:9,13,16,18; 278:4,6,9,15;279:3,6, 10,13,17;280:5,7,18, 22;281:14,18,23; 282:9,11,14,16,24; 283:6,8,10,23;284:1, 14,17,19,22,25; 285:2,4,11,18,20; 286:11,19,21;290:6, 9,12,15,18,23;291:1, 6;292:4,6,12;293:21; 294:10,16,18;295:16, 19,22;296:25; 297:22;299:4,12,14; 300:15,18,24;301:1, 20;302:11,15,19,23; 303:3,8,11,17; 304:12,15,17,20; 307:13,16,19,21; 310:14;311:5,15,24; 312:6,16,20;314:21; 315:4;317:5;318:5,7, 12,17,21,24;319:5,7, 10,14,18;320:3,16, 19,21;321:11,19,23; 322:1,6,10,13,15,19; 323:8,21;324:4; 325:12,22;326:1,3,7, 9,15,17,19,25;327:5, 25;328:2;329:7,10, 16;330:1,6,8,10,12; 331:8,11,14;332:22; 333:2,7,12,15,19,21; 334:9,14;336:8,13,	17,21;337:2,19,25; 338:3,14,16,19,22, 25;339:6,10,13,16; 340:21,24;341:3,5; 342:3,5,9,11,13; 344:14,17,20,25; 345:3,10,12,15; 347:25;348:8,11,14 Heights (8) 289:24;290:1,4,18, 19;291:4,13;309:16 help (3) 243:22;284:7; 311:3 helps (1) 260:16 here's (1) 282:16 Herman (1) 259:4 hire (1) 304:24 hired (8) 296:3;304:10,11; 305:21,24;306:13; 335:18,20 hiring (1) 346:6 history (2) 243:21;313:11 hold (2) 266:6;307:19 holding (1) 273:23 holds (2) 297:5;313:10 home (1) 256:23 honestly (5) 253:14;260:22; 273:25;308:19;339:3 hospital (59) 245:21,25;246:5; 248:19;250:5;251:5, 6,24;256:11;258:19; 270:24;272:15; 277:12;280:9; 281:21;282:8; 283:14;286:3,7,15; 287:16;288:24; 292:1,9,16,19,22; 293:1,5,8,12,12; 295:4;305:6,9; 308:15,15,18;309:9, 18;310:4,21;311:11, 20,22,23;312:15,15; 313:7;316:15,19,20; 323:12;340:6,15,17; 342:19,24;343:7 Hospital's (1) 282:22 hours (1) 284:2	HR (4) 248:21;249:1,5; 253:12 human (8) 244:18;305:4; 309:6;334:20;335:6, 11;343:25;345:22 I ID (9) 323:20,23;324:6; 329:15;344:4,6,24; 345:3;348:12 identification (4) 285:7;323:15; 343:18,21 identified (6) 327:4;328:10; 330:15;331:18; 333:23;344:18 identify (1) 331:2 identifying (3) 283:1;304:21; 328:15 immunization (3) 279:22;280:2,13 impression (1) 301:6 improper (1) 284:15 including (1) 323:6 increase (23) 320:9,12,14,23; 321:4,7,8,15,20,24, 25;322:2,3,4,7,9,11, 16,17,18,23;323:2,7 independently (1) 280:9 indicate (1) 282:19 indicated (1) 340:24 indication (1) 324:2 individual (1) 304:12 individually (1) 281:7 individuals (2) 318:25;334:20 inference (1) 286:6 influenza (1) 248:6 information (12) 251:23;253:13; 258:18,18;259:6; 262:12;276:8; 280:14;303:9; 313:10;314:15;	328:16 informed (1) 267:2 initial (1) 286:16 injections (1) 315:17 inquiry (1) 315:5 insofar (2) 278:15;318:24 instruction (4) 268:3,6;317:14; 347:4 instructions (7) 243:25;252:19; 255:8;268:8,11; 269:7;317:15 interaction (3) 270:3,9;314:14 interactions (1) 316:24 internet (2) 252:24;253:1 interrelation (1) 272:14 interview (20) 244:7,9,17,21,25; 245:2,10;305:1,3,14, 16,19;306:1,2,3,6,11, 13,18,24 interviewed (5) 244:12,12;245:1; 305:18,25 interviewing (1) 244:23 into (17) 247:16;248:7; 257:16;258:5;263:1; 272:19,19;278:20; 281:16;283:2; 286:14;303:3;312:9; 313:13;314:3; 316:15;344:11 introduce (1) 344:10 introduced (1) 245:12 introduction (1) 331:7 introduction/department (2) 264:5,10 involved (3) 282:18;311:3; 322:23 involvement (3) 282:22;295:5; 325:9 issue (7) 278:7;282:23; 310:12;329:3;333:3, 8;337:20 issued (1)	343:21 issues (6) 280:2,3,17;284:7; 299:6,6 Ivan (3) 265:1,1;269:25 J Janet (2) 316:22,24 January (1) 289:7 jelly (2) 271:16,18 Jennifer (9) 277:4,18;278:16, 21;279:10;323:5,6; 334:17,18 Joanne (9) 244:10,12;304:7,9, 24;305:18;309:4; 321:17;345:25 job (14) 243:8,18;244:1; 266:23,24;269:13; 296:6;302:1;307:17, 23,24;308:5,7;325:15 judgment (2) 278:18;279:19 K keep (2) 256:19,21 Kennedy (23) 244:10,12,17; 304:7,9,24;305:11; 306:2,3,8,9,12,18; 307:1,9;309:4; 334:19;335:6,10,13, 16,19;345:25 Kennedy's (2) 249:14;309:5 key (1) 276:4 kidney (6) 271:24;294:6,7,12; 339:24;340:1 kind (10) 270:3,8;271:13; 280:14;294:4,19; 298:21;317:12,15; 324:15 Kings (23) 277:22;283:13,19; 300:21,23;301:3,5,6, 10,12,14,18;305:12, 22;307:11,14;310:9; 328:25;329:6;331:2; 332:11;335:8;346:17 knew (3) 308:10,11;309:2
---	--	--	---	--

knowledge (1) 309:7	273:24	341:22	260:11;261:12,16,23; 278:10;302:10	mentioned (2) 266:24;323:4
knows (1) 250:9	310:14	LPN (4) 268:1;296:7; 307:24;325:7	materials (2) 251:12;275:4	met (9) 244:24;277:5; 334:17,18,20;335:3, 6,10,13
Kronos (1) 343:17	281:19,25;303:1	LPNs (4) 295:15;297:10,10; 347:10	math (1) 258:2	Methodist (55) 244:3;246:3,4; 247:11;250:5;251:5, 6,23;270:24;272:15; 276:3,21;277:11; 279:11;281:21; 282:8,18,22;283:14; 286:3,7,15;287:16; 290:20,24;292:1,16, 22;293:1,5,8,12,12; 301:7,11;302:3; 305:4,5;308:15; 309:9;310:3,20; 311:11;312:9,10; 316:19;336:10; 341:3;342:19,23; 343:1,25;346:2,3,7
KRUEGER (1) 344:24	289:12,14,15,20; 290:4;291:3,13; 348:5	lunch (5) 283:25;293:6; 318:20;319:15;347:3	matter (7) 276:5;282:20; 290:12,14;338:3,5; 348:15	microphone (1) 242:19
L	line (5) 254:23;264:5; 296:24;315:5;338:8	lunchroom (3) 298:9,15,16	matters (8) 299:9,10,17,19,22; 346:24;347:1,16	mid (2) 306:20,25
labor (7) 275:15,25;276:4; 278:13;280:9,10; 319:1	list (2) 279:2;339:19	M	May (11) 243:11,11;247:18, 21;273:16;278:24; 280:6;284:7;311:20; 314:14;318:25	middle (1) 248:20
large (2) 292:21;297:21	listed (4) 248:21;253:11; 277:23,25	Madam (1) 247:17	maybe (16) 250:14;266:6,6; 271:14;275:6; 276:23;297:20; 306:15,21;320:22; 326:5;341:5;342:22; 343:6;344:13;348:6	midnight (1) 317:17
Last (9) 242:15;260:15; 261:5,14;295:23; 296:2,3;325:7,8	listening (1) 281:23	main (1) 248:19	McCullough (1) 325:7	might (3) 260:21;318:19; 321:15
late (1) 270:21	lists (1) 278:25	mainly (1) 245:1	mean (13) 244:25;250:17; 264:19;265:17; 266:4;272:19; 276:19;279:4,14; 296:25;297:2,6; 323:9	mile (2) 293:1,3
later (3) 306:10;307:1; 326:7	lithotripsy (1) 340:5	maintaining (1) 285:12	means (1) 314:24	minute (1) 274:8
Lauren (1) 265:2	litigation (1) 285:8	maintains (1) 313:7	meant (1) 279:16	mistaken (2) 256:18;322:5
law (1) 280:21	little (7) 241:17;252:5; 275:6;317:6;331:11; 341:22;345:20	making (1) 280:16	medical (13) 266:25;268:1,20, 24;312:5,25;313:2,6; 314:7,10,16;325:21; 347:9	misunderstand (1) 347:21
learn (2) 244:1;308:17	LLC (2) 300:21;301:4	Management (4) 320:18,19;321:16, 17	meet (2) 335:16,19	moment (2) 273:5;304:18
Learning (1) 296:11	locate (1) 303:5	manager (15) 244:13;269:1,3,5; 270:23;274:20,23; 280:1;298:8,18,22; 299:1,9,24;335:1	meeting (5) 281:10;282:7,12; 283:3;318:7	Monday (2) 267:5;287:12
leave (3) 287:3;338:25; 339:2	located (2) 292:9;344:1	managers (1) 282:17	meetings (3) 269:20,24;271:11	month (5) 288:14;289:1; 296:4,5;348:6
left (2) 324:5;341:20	location (14) 244:2;270:24; 276:1;287:5;288:5, 20,22;290:16,19; 305:6,9;338:7; 340:19;346:14	many (8) 250:3;270:12; 292:21;297:21; 303:25;309:22; 315:21;335:10	Melinda (3) 242:9,12,15	months (4) 243:11;269:16,23; 343:12
left-hand (1) 252:20	locations (2) 311:6;340:20	March (4) 241:6;275:6; 321:25;332:14	M-E-L-I-N-D-A (1) 242:15	more (10) 257:19;262:18; 278:20;299:5;315:1, 5;331:12;333:9; 343:5;345:20
legal (3) 301:1;310:12; 329:3	long (1) 243:10	Maritza (1) 270:11	Melissa (1) 297:17	morning (1) 324:17
Leslie (1) 325:3	longer (1) 268:22	mark (4) 241:15;260:18,20; 344:15	member (2) 296:1;320:17	Most (1) 317:2
letter (4) 277:1;327:3,7,15	look (14) 246:10;247:7; 252:20;255:5;256:6; 259:8;263:25; 274:21;276:25; 277:21;278:20; 312:5;323:19;332:9	marked (10) 246:7;251:17; 278:20;285:7;327:2; 328:9;329:25; 331:17,19;333:22	members (2) 276:9;325:20	motion (1) 286:22
letterhead (1) 277:21	looked (1) 324:4	marking (1) 330:12		
letters (1) 262:19	looking (6) 248:20;249:13; 253:8;254:21,23; 273:22	markings (1) 262:16		
license (5) 294:24;296:16,19, 22;315:15	looks (1) 276:9	marks (2) 263:16;325:3		
Licensed (11) 243:9,19;244:5; 266:25;294:24; 295:12;296:15,16,22; 297:4;302:2	louder (1)	material (8) 258:24;259:23;		
lidocaine (2) 271:16,18				
light (1)				

move (6) 247:16;286:12,15; 331:6;334:8;344:10	285:6;299:2;312:9; 315:4;317:19;318:9; 328:18;332:24; 333:9;345:8;347:12	332:7	272:7,25;283:8; 284:11,22;295:8; 318:4,22;319:18; 325:25;333:11,14,21; 336:12,14,16;337:5; 6,9,13;338:20,20,23; 339:4,7;348:13	299:4,12,14;300:15, 18,24;301:1,20; 302:11,15,19,23; 303:3,8,11,17; 304:12,15,17,20; 307:13,16,19,21; 310:14;311:5,15,24; 312:6,16,20;314:21; 315:4;317:5;318:5,7, 12,17,21,24;319:5,7, 10,14,18;320:3,16, 19,21;321:11,19,23; 322:1,6,10,13,15,19; 323:8,21;324:4; 325:12,22;326:1,3,7, 9,15,17,19,25;327:5, 25;328:2;329:7,10, 16;330:1,6,8,10,12; 331:8,11,14;332:22; 333:2,7,12,15,19,21; 334:9,14;336:8,13, 17,21;337:2,19,25; 338:3,14,16,19,22, 25;339:6,10,13,16; 340:21,24;341:3,5; 342:3,5,9,11,13; 344:14,17,20,25; 345:3,10,12,15; 347:25;348:8,11,14
moved (5) 257:15;258:5; 262:25;318:7;334:12	needs (3) 271:21;317:5; 318:13	nurse (21) 243:9,19;244:5; 245:13;251:4; 266:25;267:1; 269:13;294:24; 295:13;296:15,17,22; 297:4,14,16;302:2; 315:9,16;316:9,10	offer (6) 241:16;307:11; 308:5,7;327:24; 332:16	312:6,16,20;314:21; 315:4;317:5;318:5,7, 12,17,21,24;319:5,7, 10,14,18;320:3,16, 19,21;321:11,19,23; 322:1,6,10,13,15,19; 323:8,21;324:4; 325:12,22;326:1,3,7, 9,15,17,19,25;327:5, 25;328:2;329:7,10, 16;330:1,6,8,10,12; 331:8,11,14;332:22; 333:2,7,12,15,19,21; 334:9,14;336:8,13, 17,21;337:2,19,25; 338:3,14,16,19,22, 25;339:6,10,13,16; 340:21,24;341:3,5; 342:3,5,9,11,13; 344:14,17,20,25; 345:3,10,12,15; 347:25;348:8,11,14
moves (11) 247:12;249:7,7; 252:7;253:15;258:1; 260:23;262:2,23; 263:14;278:2	negotiations (1) 282:23	nurses (1) 315:8	offered (4) 282:10,20;307:10, 16	312:6,16,20;314:21; 315:4;317:5;318:5,7, 12,17,21,24;319:5,7, 10,14,18;320:3,16, 19,21;321:11,19,23; 322:1,6,10,13,15,19; 323:8,21;324:4; 325:12,22;326:1,3,7, 9,15,17,19,25;327:5, 25;328:2;329:7,10, 16;330:1,6,8,10,12; 331:8,11,14;332:22; 333:2,7,12,15,19,21; 334:9,14;336:8,13, 17,21;337:2,19,25; 338:3,14,16,19,22, 25;339:6,10,13,16; 340:21,24;341:3,5; 342:3,5,9,11,13; 344:14,17,20,25; 345:3,10,12,15; 347:25;348:8,11,14
moving (1) 334:14	New (51) 244:3;245:13; 247:11;251:23; 266:15;267:3,18; 270:24;272:15; 276:21;277:11; 278:1;279:11;282:7, 18,21;283:14;286:3, 7,15;290:20,23; 292:1,16,22,25; 293:5,8,11,12;296:2, 3,19;297:19;301:7, 11;302:3;308:15; 309:8;310:3,20; 311:11;312:8,10; 334:4;336:10;341:3; 342:18,23;343:1,25	NYM (2) 252:24;253:1	offers (5) 246:16;255:10,19; 256:9;257:12	312:6,16,20;314:21; 315:4;317:5;318:5,7, 12,17,21,24;319:5,7, 10,14,18;320:3,16, 19,21;321:11,19,23; 322:1,6,10,13,15,19; 323:8,21;324:4; 325:12,22;326:1,3,7, 9,15,17,19,25;327:5, 25;328:2;329:7,10, 16;330:1,6,8,10,12; 331:8,11,14;332:22; 333:2,7,12,15,19,21; 334:9,14;336:8,13, 17,21;337:2,19,25; 338:3,14,16,19,22, 25;339:6,10,13,16; 340:21,24;341:3,5; 342:3,5,9,11,13; 344:14,17,20,25; 345:3,10,12,15; 347:25;348:8,11,14
MSO (40) 241:20;276:3,21; 277:22;280:8; 281:21;283:13,19; 286:2,7,14;293:17; 300:20,23;301:3,5,6, 9,12,14,18;305:12, 22;307:11,13;310:9, 12;320:19;326:11,13, 21;327:21;328:25; 329:6;331:2;332:11; 335:7,7;337:23; 346:17	next (3) 242:8;260:1; 344:16	NYP (2) 254:24;255:1	office (48) 265:4;269:1,1,3,5; 270:23;271:14; 274:20,23;277:14,18; 280:1;289:12,16,17, 18,19,24;290:22; 294:13;297:25; 298:4,8,8,18,19,21, 25;299:9,24;304:3; 309:20,22;335:1,3, 21;340:8,9,12,13,16; 341:9,12,25;343:2,8; 347:22;348:5	312:6,16,20;314:21; 315:4;317:5;318:5,7, 12,17,21,24;319:5,7, 10,14,18;320:3,16, 19,21;321:11,19,23; 322:1,6,10,13,15,19; 323:8,21;324:4; 325:12,22;326:1,3,7, 9,15,17,19,25;327:5, 25;328:2;329:7,10, 16;330:1,6,8,10,12; 331:8,11,14;332:22; 333:2,7,12,15,19,21; 334:9,14;336:8,13, 17,21;337:2,19,25; 338:3,14,16,19,22, 25;339:6,10,13,16; 340:21,24;341:3,5; 342:3,5,9,11,13; 344:14,17,20,25; 345:3,10,12,15; 347:25;348:8,11,14
MSO-2 (2) 326:18,22	none (3) 310:3,9;311:9	O	OFFICER (283) 241:3,8,10,12,14, 21,23;242:1,4,7,10, 13,17,21;244:13; 245:23;246:2,4,7,18; 247:14,17,19,24; 248:2,6;249:9,15,18, 20;250:12,17,22,25; 251:2,7,10,17;252:5, 9,11;253:4,6,8,16,18, 20;254:4,11;255:21; 256:10,13,15,20,22, 25;257:13,15;258:3, 5;259:10,14;260:24; 261:1,8;262:5,25; 263:19,22;271:1,9; 272:12,18,23;273:18, 22;274:1,5,7,10,12; 275:7,16,20,22; 276:6,11,17,19; 277:9,13,16,18; 278:4,6,9,15;279:3,6, 10,13,17;280:5,7,18, 22;281:14,18,23; 282:9,11,14,16,24; 283:6,8,10,23;284:1, 14,17,22,25;285:2,4, 11,18,20;286:11,19, 21;290:6,9,12,15,18, 23;291:1,6;292:4,6, 12;293:21;294:10,16, 18;295:16,19,22; 296:25;297:22;	312:6,16,20;314:21; 315:4;317:5;318:5,7, 12,17,21,24;319:5,7, 10,14,18;320:3,16, 19,21;321:11,19,23; 322:1,6,10,13,15,19; 323:8,21;324:4; 325:12,22;326:1,3,7, 9,15,17,19,25;327:5, 25;328:2;329:7,10, 16;330:1,6,8,10,12; 331:8,11,14;332:22; 333:2,7,12,15,19,21; 334:9,14;336:8,13, 17,21;337:2,19,25; 338:3,14,16,19,22, 25;339:6,10,13,16; 340:21,24;341:3,5; 342:3,5,9,11,13; 344:14,17,20,25; 345:3,10,12,15; 347:25;348:8,11,14
MSO-3 (7) 326:19;327:2,4,24; 328:2,4;334:12	non-patient (2) 346:24;347:16	object (3) 296:24;319:4; 338:13	officer's (1) 284:19	312:6,16,20;314:21; 315:4;317:5;318:5,7, 12,17,21,24;319:5,7, 10,14,18;320:3,16, 19,21;321:11,19,23; 322:1,6,10,13,15,19; 323:8,21;324:4; 325:12,22;326:1,3,7, 9,15,17,19,25;327:5, 25;328:2;329:7,10, 16;330:1,6,8,10,12; 331:8,11,14;332:22; 333:2,7,12,15,19,21; 334:9,14;336:8,13, 17,21;337:2,19,25; 338:3,14,16,19,22, 25;339:6,10,13,16; 340:21,24;341:3,5; 342:3,5,9,11,13; 344:14,17,20,25; 345:3,10,12,15; 347:25;348:8,11,14
MSO-4 (6) 328:9,10,20; 330:10,11;345:17	normal (1) 285:8	objecting (1) 279:7	offices (10) 289:10,11,21,23; 290:6;298:3,6;310:1; 324:12;348:3	312:6,16,20;314:21; 315:4;317:5;318:5,7, 12,17,21,24;319:5,7, 10,14,18;320:3,16, 19,21;321:11,19,23; 322:1,6,10,13,15,19; 323:8,21;324:4; 325:12,22;326:1,3,7, 9,15,17,19,25;327:5, 25;328:2;329:7,10, 16;330:1,6,8,10,12; 331:8,11,14;332:22; 333:2,7,12,15,19,21; 334:9,14;336:8,13, 17,21;337:2,19,25; 338:3,14,16,19,22, 25;339:6,10,13,16; 340:21,24;341:3,5; 342:3,5,9,11,13; 344:14,17,20,25; 345:3,10,12,15; 347:25;348:8,11,14
MSO-5 (6) 326:24;329:25; 330:12,15;331:14,16	normally (3) 265:15;266:10; 270:11	objection (50) 241:15,21,22; 246:18,19;247:13; 249:9,17;250:8; 252:9,10;253:18,19; 255:11,20;256:13,14; 257:13,14;258:3,4; 260:24,25;262:4,24; 263:21;270:25; 272:11;275:12; 277:8;278:5,6;280:3; 281:13;300:25; 301:19;302:6,17; 303:15,19;310:11; 319:16;327:25; 330:8;331:5,7; 332:17;334:9; 340:18;344:12	often (2) 271:7;342:21	312:6,16,20;314:21; 315:4;317:5;318:5,7, 12,17,21,24;319:5,7, 10,14,18;320:3,16, 19,21;321:11,19,23; 322:1,6,10,13,15,19; 323:8,21;324:4; 325:12,22;326:1,3,7, 9,15,17,19,25;327:5, 25;328:2;329:7,10, 16;330:1,6,8,10,12; 331:8,11,14;332:22; 333:2,7,12,15,19,21; 334:9,14;336:8,13, 17,21;337:2,19,25; 338:3,14,16,19,22, 25;339:6,10,13,16; 340:21,24;341:3,5; 342:3,5,9,11,13; 344:14,17,20,25; 345:3,10,12,15; 347:25;348:8,11,14
MSO-6 (6) 331:17,18,19,21; 332:6,21	notation (4) 259:17,21;260:5,9	observations (1) 314:16	old (1) 326:20	312:6,16,20;314:21; 315:4;317:5;318:5,7, 12,17,21,24;319:5,7, 10,14,18;320:3,16, 19,21;321:11,19,23; 322:1,6,10,13,15,19; 323:8,21;324:4; 325:12,22;326:1,3,7, 9,15,17,19,25;327:5, 25;328:2;329:7,10, 16;330:1,6,8,10,12; 331:8,11,14;332:22; 333:2,7,12,15,19,21; 334:9,14;336:8,13, 17,21;337:2,19,25; 338:3,14,16,19,22, 25;339:6,10,13,16; 340:21,24;341:3,5; 342:3,5,9,11,13; 344:14,17,20,25; 345:3,10,12,15; 347:25;348:8,11,14
MSO-7 (5) 333:22,23;334:8, 11;346:10	notations (1) 259:2	observe (1) 252:2	once (2) 277:6;313:18	312:6,16,20;314:21; 315:4;317:5;318:5,7, 12,17,21,24;319:5,7, 10,14,18;320:3,16, 19,21;321:11,19,23; 322:1,6,10,13,15,19; 323:8,21;324:4; 325:12,22;326:1,3,7, 9,15,17,19,25;327:5, 25;328:2;329:7,10, 16;330:1,6,8,10,12; 331:8,11,14;332:22; 333:2,7,12,15,19,21; 334:9,14;336:8,13, 17,21;337:2,19,25; 338:3,14,16,19,22, 25;339:6,10,13,16; 340:21,24;341:3,5; 342:3,5,9,11,13; 344:14,17,20,25; 345:3,10,12,15; 347:25;348:8,11,14
much (3) 281:3;315:14; 348:8	note (3) 278:25;280:20; 332:23	obtain (5) 283:24;296:12,14, 16;314:14	One (86) 243:5;244:22; 246:22;248:11,19,19, 20;249:6;251:8,9; 253:5;256:19; 264:17,22,24;265:12; 266:14,18,21;268:18; 270:5,8,15;271:21, 22;272:15,18;273:5; 275:8,14,24;277:15; 281:2;287:5;288:1,7; 289:2,5,7,9;290:3,16, 292:25;293:4; 294:13;295:2,13,14; 297:3;298:3,7,12; 302:11,22;303:22; 305:20;308:1,8,10, 12,22;309:1,24; 310:9,20;311:2,3,9; 313:24;314:10; 315:9;317:24; 324:12;325:1,5;	312:6,16,20;314:21; 315:4;317:5;318:5,7, 12,17,21,24;319:5,7, 10,14,18;320:3,16, 19,21;321:11,19,23; 322:1,6,10,13,15,19; 323:8,21;324:4; 325:12,22;326:1,3,7, 9,15,17,19,25;327:5, 25;328:2;329:7,10, 16;330:1,6,8,10,12; 331:8,11,14;332:22; 333:2,7,12,15,19,21; 334:9,14;336:8,13, 17,21;337:2,19,25; 338:3,14,16,19,22, 25;339:6,10,13,16; 340:21,24;341:3,5; 342:3,5,9,11,13; 344:14,17,20,25; 345:3,10,12,15; 347:25;348:8,11,14
myself (1) 245:12	Noted (2) 241:2;320:2	obtaining (2) 320:9;322:23		312:6,16,20;314:21; 315:4;317:5;318:5,7, 12,17,21,24;319:5,7, 10,14,18;320:3,16, 19,21;321:11,19,23; 322:1,6,10,13,15,19; 323:8,21;324:4; 325:12,22;326:1,3,7, 9,15,17,19,25;327:5, 25;328:2;329:7,10, 16;330:1,6,8,10,12; 331:8,11,14;332:22; 333:2,7,12,15,19,21; 334:9,14;336:8,13, 17,21;337:2,19,25; 338:3,14,16,19,22, 25;339:6,10,13,16; 340:21,24;341:3,5; 342:3,5,9,11,13; 344:14,17,20,25; 345:3,10,12,15; 347:25;348:8,11,14
N	notes (1) 324:16	obviously (1) 338:13		312:6,16,20;314:21; 315:4;317:5;318:5,7, 12,17,21,24;319:5,7, 10,14,18;320:3,16, 19,21;321:11,19,23; 322:1,6,10,13,15,19; 323:8,21;324:4; 325:12,22;326:1,3,7, 9,15,17,19,25;327:5, 25;328:2;329:7,10, 16;330:1,6,8,10,12; 331:8,11,14;332:22; 333:2,7,12,15,19,21; 334:9,14;336:8,13, 17,21;337:2,19,25; 338:3,14,16,19,22, 25;339:6,10,13,16; 340:21,24;341:3,5; 342:3,5,9,11,13; 344:14,17,20,25; 345:3,10,12,15; 347:25;348:8,11,14
name (13) 242:14,16;259:4; 262:14;290:15; 295:20,23;296:2; 303:13;325:7,8; 332:9;343:15	notice (1) 330:13	occasionally (1) 311:6		312:6,16,20;314:21; 315:4;317:5;318:5,7, 12,17,21,24;319:5,7, 10,14,18;320:3,16, 19,21;321:11,19,23; 322:1,6,10,13,15,19; 323:8,21;324:4; 325:12,22;326:1,3,7, 9,15,17,19,25;327:5, 25;328:2;329:7,10, 16;330:1,6,8,10,12; 331:8,11,14;332:22; 333:2,7,12,15,19,21; 334:9,14;336:8,13, 17,21;337:2,19,25; 338:3,14,16,19,22, 25;339:6,10,13,16; 340:21,24;341:3,5; 342:3,5,9,11,13; 344:14,17,20,25; 345:3,10,12,15; 347:25;348:8,11,14
names (2) 264:24;295:18	November (19) 248:22,24;249:5, 25;256:10;258:10; 287:19,21,23,24; 289:1;304:25; 306:11,13,14,15; 321:2,3;327:22	occurs (1) 341:1		312:6,16,20;314:21; 315:4;317:5;318:5,7, 12,17,21,24;319:5,7, 10,14,18;320:3,16, 19,21;321:11,19,23; 322:1,6,10,13,15,19; 323:8,21;324:4; 325:12,22;326:1,3,7, 9,15,17,19,25;327:5, 25;328:2;329:7,10, 16;330:1,6,8,10,12; 331:8,11,14;332:22; 333:2,7,12,15,19,21; 334:9,14;336:8,13, 17,21;337:2,19,25; 338:3,14,16,19,22, 25;339:6,10,13,16; 340:21,24;341:3,5; 342:3,5,9,11,13; 344:14,17,20,25; 345:3,10,12,15; 347:25;348:8,11,14
necessary (1) 333:5	number (7) 241:7;307:7; 329:15,16;339:1; 344:24;345:3	October (15) 306:20,20,21,25, 25;320:25;321:5; 327:3,6,12,14,16,16, 18;330:20		312:6,16,20;314:21; 315:4;317:5;318:5,7, 12,17,21,24;319:5,7, 10,14,18;320:3,16, 19,21;321:11,19,23; 322:1,6,10,13,15,19; 323:8,21;324:4; 325:12,22;326:1,3,7, 9,15,17,19,25;327:5, 25;328:2;329:7,10, 16;330:1,6,8,10,12; 331:8,11,14;332:22; 333:2,7,12,15,19,21; 334:9,14;336:8,13, 17,21;337:2,19,25; 338

326:22;328:12,23; 331:24;335:3; 336:12;337:22; 342:18;345:10; 347:23;348:3 ones (3) 286:1,8,17 online (6) 261:5;329:18; 345:19,21;346:14,21 only (3) 319:2;340:19; 343:11 open (2) 278:17;282:12 opening (1) 281:22 operations (2) 272:14,15 opportunity (1) 254:13 opposed (2) 286:16;298:11 opposing (2) 285:6,15 order (3) 247:14;280:11; 286:10 ordered (1) 347:12 orientation (32) 248:10,24;249:5, 25;251:13,24,25; 253:25;254:19; 255:17;256:4,11; 257:11,24;258:10,17, 25;259:2,21,24; 260:9,12;261:13,22, 24;262:13,21;263:8, 9,12;287:22;308:21 orientations (1) 248:19 oriented (1) 342:6 original (1) 328:18 OSHA (1) 259:12 others (2) 244:11;341:20 otherwise (1) 321:15 ourselves (2) 347:7,8 out (27) 245:13;263:12; 270:13;272:5,6; 276:22;302:4,8,16; 303:9;304:18;328:6; 329:5,18,18;333:16; 335:25;339:8; 341:20;343:14,16; 345:21;346:1,5,6,21;	347:6 outset (1) 301:21 outside (1) 266:11 over (5) 261:25;272:6,9; 275:6;283:24 overtime (1) 330:25 own (1) 280:9 P P-29 (1) 344:18 packet (4) 255:17;257:25; 263:18;342:25 pads (1) 271:15 page (24) 252:20;253:9,12, 12;255:5;256:6; 258:20,24;259:8,8; 260:1,2,5,11,14,15; 261:2,5;264:4,8; 274:22;276:25; 277:21;346:16 paid (2) 290:9;331:11 paper (2) 248:18;331:24 papers (2) 272:7;343:1 paperwork (6) 270:11;272:5,6,25; 345:21;346:6 Park (53) 243:5;244:22; 246:22;248:11; 251:8;264:17,24; 265:12;268:19; 270:5,8;271:22; 272:16;275:8;287:5; 288:1,8;289:2,5,8; 290:4;292:25;293:5; 294:13;295:2,13; 297:3;303:23; 305:20;308:2,9,10, 13,23;309:1,24; 310:10,20;311:2,4, 10;313:25;324:13; 325:1,5;335:4,12,14, 17;337:22;342:18; 347:23;348:4 part (3) 301:6;311:25; 340:25 participate (1) 244:23 participation (2)	276:2,3 particular (4) 266:16;267:11,19; 269:10 parties (1) 286:10 PAs (1) 347:9 pass (1) 270:1 passed (1) 273:12 password (2) 324:20;346:5 past (1) 348:6 pathogen (1) 261:4 pathogens (1) 260:15 patient (24) 268:5,6,8;270:20; 271:21;272:1,4,6; 273:7,11,12;297:24; 299:19,22;313:10,12, 12,17;314:8,10,15, 19;316:20;341:1 patients (37) 243:20,20,23; 265:19,19,20,20; 266:15,15,17;267:4, 9,18;268:12,16; 271:15,23,23;272:16; 298:11;299:3,20; 313:2;314:20;316:3, 4,5,6;317:10,12,13, 15,22;340:17,19; 342:18,25 patient's (1) 313:11 Pause (28) 242:6;247:6; 248:14;251:16; 252:14;254:3,10; 255:12,24;257:6,20; 258:13;261:17; 262:7;263:3;274:4, 13;282:5;283:7; 295:7;303:20; 316:13;318:3; 325:24;332:2; 335:23;336:14;345:6 pay (12) 329:22;330:13,22; 331:9,9;332:13,14, 14,23,24;333:4,9 paycheck (5) 300:1,5,9,20; 332:11 paychecks (1) 252:19 payday (1) 330:14	people (7) 251:7;275:2; 310:12;312:14; 322:3;337:23;338:7 per (3) 285:8;339:1,1 percent (3) 273:21;320:11; 323:3 perform (9) 294:4,6;296:21; 309:8;311:1,10; 312:8;339:20;340:16 performance (2) 269:12,15 performed (8) 247:3;264:12,17; 273:7;295:2,4; 340:15;341:12 performing (1) 267:14 performs (3) 265:22;280:8; 340:7 permission (3) 336:16;337:5,6 person (4) 259:6;275:1,3; 276:13 personally (2) 273:1,2 personnel (1) 299:6 persons (3) 279:15,16,16 petition (6) 241:20;242:2; 278:25;326:20,21; 335:15 petitioner (4) 284:8;285:15; 286:4;326:20 Petitioner's (1) 344:18 phone (3) 307:6,7;308:3 photo (1) 324:5 photocopy (3) 323:21;344:13,14 physical (2) 313:11;343:11 physically (3) 285:13;297:22,23 Physician (9) 266:25;267:25; 290:1;309:15; 315:19,21,23;316:7; 325:20 physicians (10) 243:22;293:15,17; 294:22;295:2; 299:16;310:8;	311:19,22;312:14 physician's (2) 289:16;310:1 pick (5) 242:18;270:16; 271:10,16;317:20 picks (1) 273:4 pictogram (1) 260:3 picture (4) 268:2;323:20; 344:20,21 pictures (3) 266:8,8;344:23 piece (1) 344:10 pieces (1) 331:23 place (1) 305:19 plan (1) 347:6 Please (5) 242:13,14;279:24; 328:20;341:22 pm (9) 283:9;284:24; 319:20;320:2;326:2, 2;336:14,14;348:15 point (9) 278:19;279:23; 280:2,25;281:1; 284:11;312:6;337:3; 338:6 pointing (1) 324:5 policy (2) 256:5;261:21 PortalADPcom (2) 253:5,6 portion (2) 301:12,14 position (14) 241:6;244:5,16; 283:13,14;286:2; 302:2;307:10,11; 309:5;326:11; 332:17;335:25;336:2 possession (1) 285:12 potential (1) 282:22 practical (12) 243:9,19;244:5; 266:25;269:13; 294:24;295:12; 296:15,17,22;297:4; 302:2 practice (22) 250:6,20;285:9; 293:14;308:8,22; 309:8,15;310:19;
--	---	---	---	---

311:1,19,20;312:25; 313:15;314:7,11,14, 19,20;316:10;324:9; 343:9	272:3 processed (4) 272:9,20,21,22 produce (4) 284:5,6;285:24; 336:11 produced (3) 284:4;326:12; 332:19 producing (2) 285:15;333:18 production (3) 333:1,2,4 pronounced (1) 339:22 pronouncing (2) 243:1;341:14 proper (1) 317:14 Prospect (53) 243:5;244:22; 246:22;248:11; 251:8;264:17,24; 265:12;268:18; 270:5,8;271:22; 272:16;275:8;287:5; 288:1,7;289:2,5,8; 290:3;292:25;293:4; 294:13;295:2,13; 297:3;303:23; 305:20;308:2,8,10, 12,23;309:1,24; 310:10,20;311:2,4, 10;313:24;324:13; 325:1,5;335:4,12,13, 17;337:22;342:18; 347:23;348:4 prostate (2) 294:9;341:18 prove (1) 280:12 provide (3) 286:3;314:19; 317:15 provided (6) 262:13;269:12; 276:8;287:16;321:4; 328:21 punch (1) 343:15 punching (1) 343:14 purposes (1) 322:19 pursuant (1) 296:22 put (13) 241:4;248:7;273:3; 278:23;281:9; 286:14;313:10,12; 314:15;319:8,11; 326:6;329:8 putting (2)	284:15;310:8 Q quantiferona (1) 246:23 quiz (2) 262:12,21 R raise (2) 242:11;323:3 ran (1) 339:19 rate (5) 330:14,22,25; 331:8,9 rates (1) 329:21 rather (1) 319:7 read (3) 247:25;248:4; 259:10 real (1) 284:1 really (11) 244:25;245:1,10, 15;255:4;270:22; 281:3;284:8;286:6; 301:5;339:3 reason (3) 263:15;303:4; 313:12 recall (9) 261:6,7,23;288:11, 15;302:1;303:8; 321:24;346:1 receive (17) 246:21;247:9; 251:12,25;253:24; 258:9;268:8;271:21; 280:15;304:5; 325:11;327:12; 329:21,24;330:18,20; 342:18 received (47) 241:23,25;248:8; 249:18,19,21,22; 252:4,6,11,13; 253:20,22;254:19; 255:17,21,23;256:4; 257:3,11,17;258:7, 17;261:1,9,10,22; 262:6;263:2,8,17,22, 23;268:12,15,19; 269:15;319:13; 321:7;327:16;328:2, 4;330:11;331:16; 332:11,21;334:11 receiving (1) 252:2	receptionist (1) 344:6 recess (2) 274:6;326:2 Recessed (4) 274:11;283:9; 284:24;319:20 recognize (16) 246:12;247:7; 248:15;251:20; 252:16;254:16; 255:14;256:1;257:7, 21;258:14;261:18; 262:9;263:5;274:17; 333:25 recollection (1) 323:22 reconvened (3) 274:11;283:9; 284:24 record (57) 241:4,19;242:14; 249:21;274:12; 283:8,10;284:11,13, 16,18,18,20,20,23; 285:1,2,22;286:13, 13,14,20;291:6; 292:16;304:17; 312:25;313:2,6; 314:7,16;318:4,22; 319:19;320:3;324:2; 325:25;326:4,5,9,20, 23;332:24,25;333:9, 10,11,14,17,21; 336:12,14;338:9,11, 11;344:11;345:13; 348:13 records (3) 312:5;316:18,20 RECROSS (1) 347:19 redact (1) 278:24 redactable (1) 247:23 redacted (7) 247:22;248:5; 300:15;328:15; 332:6;344:22;348:11 redaction (1) 247:15 REDIRECT (1) 339:17 refer (2) 302:18;328:25 reference (3) 282:7,18,25 references (1) 318:25 Referencing (1) 285:11 referrals (1) 342:18	referred (1) 342:23 referring (4) 262:18;267:24; 274:24;330:5 refers (1) 343:3 reflect (3) 326:9;330:22,25 refreshed (1) 323:22 refuse (2) 285:23;286:3 refusing (2) 284:5,6 regard (1) 299:17 regarding (4) 278:7;280:17; 299:3;317:22 regards (1) 347:2 regional (1) 284:12 registered (8) 251:4;267:1; 297:13,16;315:8,9, 16;316:10 regular (4) 265:7;285:2; 287:15;297:18 related (3) 269:7,20;326:22 relates (1) 339:24 relations (7) 275:15,25;276:4; 278:13;280:9,11; 319:1 relevance (7) 272:11,13;275:12; 337:20,21;338:13; 340:18 relevant (4) 278:7,22;280:3; 337:19 religious (1) 256:4 relying (1) 284:5 remember (7) 242:18;245:15; 251:4;258:9;287:20; 288:25;307:15 remembered (1) 276:12 remove (1) 319:2 repeat (3) 264:7;279:24; 291:20 repeatedly (1) 297:11
--	--	---	---	---

rephrase (4) 268:13;276:23; 311:7;340:15	328:20	saying (6) 245:10;279:10; 280:15;284:21; 312:11;336:8	307:13,16,19,21; 310:14;311:5,15,24; 312:6,16,20;314:21; 315:4;317:5;318:5,7, 12,17,21,24;319:5,7, 10,14,18	318:25;319:2
report (9) 248:21;308:25; 313:14,15,18,19,20, 21;314:15	reviewed (3) 261:24,25;343:18	scans (1) 243:23	schedule (7) 265:8;270:13,15, 16;286:24;287:4,12	short (3) 245:16;323:4,4
reporter (2) 327:6;328:20	reviews (1) 273:11	SCHAEFER (87) 320:3,16,19,21; 321:11,19,23;322:1, 6,10,13,15,19;323:8, 21;324:4;325:12,22; 326:1,3,7,9,15,17,19, 25;327:5,25;328:2; 329:7,10,16;330:1,6, 8,10,12;331:8,11,14; 332:22;333:2,7,12, 15,19,21;334:9,14; 336:8,13,17,21; 337:2,19,25;338:3, 14,16,19,22,25; 339:6,10,13,16; 340:21,24;341:3,5; 342:3,5,9,11,13; 344:14,17,20,25; 345:3,10,12,15; 347:25;348:8,11,14	show (12) 245:22;247:5; 248:13;251:15; 254:2;257:5,19; 274:3;300:17;303:6; 327:6;330:1	
representation (4) 278:8;279:9; 280:12;334:21	revised (1) 259:12	SCHAEFER (87) 320:3,16,19,21; 321:11,19,23;322:1, 6,10,13,15,19;323:8, 21;324:4;325:12,22; 326:1,3,7,9,15,17,19, 25;327:5,25;328:2; 329:7,10,16;330:1,6, 8,10,12;331:8,11,14; 332:22;333:2,7,12, 15,19,21;334:9,14; 336:8,13,17,21; 337:2,19,25;338:3, 14,16,19,22,25; 339:6,10,13,16; 340:21,24;341:3,5; 342:3,5,9,11,13; 344:14,17,20,25; 345:3,10,12,15; 347:25;348:8,11,14	school (2) 245:13;296:10	sic (2) 324:21;339:23
representations (1) 280:16	right (45) 241:3,8,14;242:1, 11,23;246:6;247:24; 248:3;253:5;256:22, 25;257:2,15;259:15; 261:8;262:25; 267:17;270:22; 272:21;273:16; 274:21;275:16; 276:13,25;278:15; 279:17;282:9,16,24; 285:20;299:21; 302:23;316:1; 318:21;319:10,14,18; 324:5;331:12,14; 332:20;340:21; 341:14;342:16	SCHAEFER (87) 320:3,16,19,21; 321:11,19,23;322:1, 6,10,13,15,19;323:8, 21;324:4;325:12,22; 326:1,3,7,9,15,17,19, 25;327:5,25;328:2; 329:7,10,16;330:1,6, 8,10,12;331:8,11,14; 332:22;333:2,7,12, 15,19,21;334:9,14; 336:8,13,17,21; 337:2,19,25;338:3, 14,16,19,22,25; 339:6,10,13,16; 340:21,24;341:3,5; 342:3,5,9,11,13; 344:14,17,20,25; 345:3,10,12,15; 347:25;348:8,11,14	Schulz (1) 265:2	sick (2) 339:8,11
representative (2) 309:6;335:7	right-hand (1) 274:22	SCHAEFER (87) 320:3,16,19,21; 321:11,19,23;322:1, 6,10,13,15,19;323:8, 21;324:4;325:12,22; 326:1,3,7,9,15,17,19, 25;327:5,25;328:2; 329:7,10,16;330:1,6, 8,10,12;331:8,11,14; 332:22;333:2,7,12, 15,19,21;334:9,14; 336:8,13,17,21; 337:2,19,25;338:3, 14,16,19,22,25; 339:6,10,13,16; 340:21,24;341:3,5; 342:3,5,9,11,13; 344:14,17,20,25; 345:3,10,12,15; 347:25;348:8,11,14	screen (1) 273:23	side (7) 252:20;266:14,15; 267:9;268:8;274:22; 324:5
represented (1) 280:8	rights (3) 257:25;326:13,14	SCHAEFER (87) 320:3,16,19,21; 321:11,19,23;322:1, 6,10,13,15,19;323:8, 21;324:4;325:12,22; 326:1,3,7,9,15,17,19, 25;327:5,25;328:2; 329:7,10,16;330:1,6, 8,10,12;331:8,11,14; 332:22;333:2,7,12, 15,19,21;334:9,14; 336:8,13,17,21; 337:2,19,25;338:3, 14,16,19,22,25; 339:6,10,13,16; 340:21,24;341:3,5; 342:3,5,9,11,13; 344:14,17,20,25; 345:3,10,12,15; 347:25;348:8,11,14	screening (1) 246:15	sides (2) 323:20;345:11
representing (1) 276:8	room (17) 248:21;249:1; 265:15,18,20;266:11, 11,14,16;267:3,6,10; 269:8;298:2;299:3; 304:13,21	SCHAEFER (87) 320:3,16,19,21; 321:11,19,23;322:1, 6,10,13,15,19;323:8, 21;324:4;325:12,22; 326:1,3,7,9,15,17,19, 25;327:5,25;328:2; 329:7,10,16;330:1,6, 8,10,12;331:8,11,14; 332:22;333:2,7,12, 15,19,21;334:9,14; 336:8,13,17,21; 337:2,19,25;338:3, 14,16,19,22,25; 339:6,10,13,16; 340:21,24;341:3,5; 342:3,5,9,11,13; 344:14,17,20,25; 345:3,10,12,15; 347:25;348:8,11,14	scribbles (1) 241:18	sign (4) 287:9;290:23; 324:17,21
request (2) 322:17;337:13	rooms (5) 266:17,18,19; 297:21,24	SCHAEFER (87) 320:3,16,19,21; 321:11,19,23;322:1, 6,10,13,15,19;323:8, 21;324:4;325:12,22; 326:1,3,7,9,15,17,19, 25;327:5,25;328:2; 329:7,10,16;330:1,6, 8,10,12;331:8,11,14; 332:22;333:2,7,12, 15,19,21;334:9,14; 336:8,13,17,21; 337:2,19,25;338:3, 14,16,19,22,25; 339:6,10,13,16; 340:21,24;341:3,5; 342:3,5,9,11,13; 344:14,17,20,25; 345:3,10,12,15; 347:25;348:8,11,14	scrubs (1) 287:15	signatories (1) 278:22
requested (2) 295:8;338:19	Roughly (1) 250:3	SCHAEFER (87) 320:3,16,19,21; 321:11,19,23;322:1, 6,10,13,15,19;323:8, 21;324:4;325:12,22; 326:1,3,7,9,15,17,19, 25;327:5,25;328:2; 329:7,10,16;330:1,6, 8,10,12;331:8,11,14; 332:22;333:2,7,12, 15,19,21;334:9,14; 336:8,13,17,21; 337:2,19,25;338:3, 14,16,19,22,25; 339:6,10,13,16; 340:21,24;341:3,5; 342:3,5,9,11,13; 344:14,17,20,25; 345:3,10,12,15; 347:25;348:8,11,14	seat (1) 242:13	signatory (1) 277:1
required (1) 288:18	rules (1) 285:8	SCHAEFER (87) 320:3,16,19,21; 321:11,19,23;322:1, 6,10,13,15,19;323:8, 21;324:4;325:12,22; 326:1,3,7,9,15,17,19, 25;327:5,25;328:2; 329:7,10,16;330:1,6, 8,10,12;331:8,11,14; 332:22;333:2,7,12, 15,19,21;334:9,14; 336:8,13,17,21; 337:2,19,25;338:3, 14,16,19,22,25; 339:6,10,13,16; 340:21,24;341:3,5; 342:3,5,9,11,13; 344:14,17,20,25; 345:3,10,12,15; 347:25;348:8,11,14	second (4) 325:25;335:21; 336:12;344:8	signature (5) 256:6;274:23; 327:9;328:21;334:6
research (1) 298:8	ruling (2) 283:2;301:22	SCHAEFER (87) 320:3,16,19,21; 321:11,19,23;322:1, 6,10,13,15,19;323:8, 21;324:4;325:12,22; 326:1,3,7,9,15,17,19, 25;327:5,25;328:2; 329:7,10,16;330:1,6, 8,10,12;331:8,11,14; 332:22;333:2,7,12, 15,19,21;334:9,14; 336:8,13,17,21; 337:2,19,25;338:3, 14,16,19,22,25; 339:6,10,13,16; 340:21,24;341:3,5; 342:3,5,9,11,13; 344:14,17,20,25; 345:3,10,12,15; 347:25;348:8,11,14	security (3) 247:21;251:3; 328:16	signatures (2) 277:1;279:5
reserve (4) 278:18;279:19; 283:1;326:13	S	SCHAEFER (87) 320:3,16,19,21; 321:11,19,23;322:1, 6,10,13,15,19;323:8, 21;324:4;325:12,22; 326:1,3,7,9,15,17,19, 25;327:5,25;328:2; 329:7,10,16;330:1,6, 8,10,12;331:8,11,14; 332:22;333:2,7,12, 15,19,21;334:9,14; 336:8,13,17,21; 337:2,19,25;338:3, 14,16,19,22,25; 339:6,10,13,16; 340:21,24;341:3,5; 342:3,5,9,11,13; 344:14,17,20,25; 345:3,10,12,15; 347:25;348:8,11,14	seeing (2) 267:3,9	signed (9) 256:17;264:22; 278:16;279:14; 319:1;327:18; 329:11,12,19
reserved (2) 298:10,12	safety (2) 258:18;259:7	SCHAEFER (87) 320:3,16,19,21; 321:11,19,23;322:1, 6,10,13,15,19;323:8, 21;324:4;325:12,22; 326:1,3,7,9,15,17,19, 25;327:5,25;328:2; 329:7,10,16;330:1,6, 8,10,12;331:8,11,14; 332:22;333:2,7,12, 15,19,21;334:9,14; 336:8,13,17,21; 337:2,19,25;338:3, 14,16,19,22,25; 339:6,10,13,16; 340:21,24;341:3,5; 342:3,5,9,11,13; 344:14,17,20,25; 345:3,10,12,15; 347:25;348:8,11,14	select (1) 286:8	similar (2) 297:13;332:23
reserves (1) 326:14	same (22) 265:4,7,9;275:1,3; 276:13;278:5; 290:10,14;298:15; 301:21;302:9;303:4; 305:18;306:25; 314:7,16;315:14; 324:25;331:20; 332:19;346:14	SCHAEFER (87) 320:3,16,19,21; 321:11,19,23;322:1, 6,10,13,15,19;323:8, 21;324:4;325:12,22; 326:1,3,7,9,15,17,19, 25;327:5,25;328:2; 329:7,10,16;330:1,6, 8,10,12;331:8,11,14; 332:22;333:2,7,12, 15,19,21;334:9,14; 336:8,13,17,21; 337:2,19,25;338:3, 14,16,19,22,25; 339:6,10,13,16; 340:21,24;341:3,5; 342:3,5,9,11,13; 344:14,17,20,25; 345:3,10,12,15; 347:25;348:8,11,14	selectively (1) 285:25	single (1) 276:10
resolution (3) 282:18,19,23	satisfied (2) 322:20;326:16	SCHAEFER (87) 320:3,16,19,21; 321:11,19,23;322:1, 6,10,13,15,19;323:8, 21;324:4;325:12,22; 326:1,3,7,9,15,17,19, 25;327:5,25;328:2; 329:7,10,16;330:1,6, 8,10,12;331:8,11,14; 332:22;333:2,7,12, 15,19,21;334:9,14; 336:8,13,17,21; 337:2,19,25;338:3, 14,16,19,22,25; 339:6,10,13,16; 340:21,24;341:3,5; 342:3,5,9,11,13; 344:14,17,20,25; 345:3,10,12,15; 347:25;348:8,11,14	self (2) 267:22,24	sit (1) 298:1
resolve (1) 284:7	save (1) 302:23	SCHAEFER (87) 320:3,16,19,21; 321:11,19,23;322:1, 6,10,13,15,19;323:8, 21;324:4;325:12,22; 326:1,3,7,9,15,17,19, 25;327:5,25;328:2; 329:7,10,16;330:1,6, 8,10,12;331:8,11,14; 332:22;333:2,7,12, 15,19,21;334:9,14; 336:8,13,17,21; 337:2,19,25;338:3, 14,16,19,22,25; 339:6,10,13,16; 340:21,24;341:3,5; 342:3,5,9,11,13; 344:14,17,20,25; 345:3,10,12,15; 347:25;348:8,11,14	send (2) 271:23,24	site (12) 271:21;272:21,22; 336:1,5,6,8,9;346:1, 2,3,7
resources (9) 244:18;252:22; 305:4;309:6;334:20; 335:7,11;343:25; 345:22	saw (3) 244:5;343:6,7	SCHAEFER (87) 320:3,16,19,21; 321:11,19,23;322:1, 6,10,13,15,19;323:8, 21;324:4;325:12,22; 326:1,3,7,9,15,17,19, 25;327:5,25;328:2; 329:7,10,16;330:1,6, 8,10,12;331:8,11,14; 332:22;333:2,7,12, 15,19,21;334:9,14; 336:8,13,17,21; 337:2,19,25;338:3, 14,16,19,22,25; 339:6,10,13,16; 340:21,24;341:3,5; 342:3,5,9,11,13; 344:14,17,20,25; 345:3,10,12,15; 347:25;348:8,11,14	sense (1) 294:5	sites (1) 309:15
respect (3) 332:18;347:11,15		SCHAEFER (87) 320:3,16,19,21; 321:11,19,23;322:1, 6,10,13,15,19;323:8, 21;324:4;325:12,22; 326:1,3,7,9,15,17,19, 25;327:5,25;328:2; 329:7,10,16;330:1,6, 8,10,12;331:8,11,14; 332:22;333:2,7,12, 15,19,21;334:9,14; 336:8,13,17,21; 337:2,19,25;338:3, 14,16,19,22,25; 339:6,10,13,16; 340:21,24;341:3,5; 342:3,5,9,11,13; 344:14,17,20,25; 345:3,10,12,15; 347:25;348:8,11,14	separate (1) 305:6	sitting (1) 304:13
respond (4) 275:13,22;280:6; 284:17		SCHAEFER (87) 320:3,16,19,21; 321:11,19,23;322:1, 6,10,13,15,19;323:8, 21;324:4;325:12,22; 326:1,3,7,9,15,17,19, 25;327:5,25;328:2; 329:7,10,16;330:1,6, 8,10,12;331:8,11,14; 332:22;333:2,7,12, 15,19,21;334:9,14; 336:8,13,17,21; 337:2,19,25;338:3, 14,16,19,22,25; 339:6,10,13,16; 340:21,24;341:3,5; 342:3,5,9,11,13; 344:14,17,20,25; 345:3,10,12,15; 347:25;348:8,11,14	separately (1) 322:3	six (4) 243:11;259:15; 269:16;343:12
respondent's (2) 284:4,8		SCHAEFER (87) 320:3,16,19,21; 321:11,19,23;322:1, 6,10,13,15,19;323:8, 21;324:4;325:12,22; 326:1,3,7,9,15,17,19, 25;327:5,25;328:2; 329:7,10,16;330:1,6, 8,10,12;331:8,11,14; 332:22;333:2,7,12, 15,19,21;334:9,14; 336:8,13,17,21; 337:2,19,25;338:3, 14,16,19,22,25; 339:6,10,13,16; 340:21,24;341:3,5; 342:3,5,9,11,13; 344:14,17,20,25; 345:3,10,12,15; 347:25;348:8,11,14	serve (1) 338:7	social (2) 247:21;328:16
response (1) 242:2		SCHAEFER (87) 320:3,16,19,21; 321:11,19,23;322:1, 6,10,13,15,19;323:8, 21;324:4;325:12,22; 326:1,3,7,9,15,17,19, 25;327:5,25;328:2; 329:7,10,16;330:1,6, 8,10,12;331:8,11,14; 332:22;333:2,7,12, 15,19,21;334:9,14; 336:8,13,17,21; 337:2,19,25;338:3, 14,16,19,22,25; 339:6,10,13,16; 340:21,24;341:3,5; 342:3,5,9,11,13; 344:14,17,20,25; 345:3,10,12,15; 347:25;348:8,11,14	served (7) 337:17,22,23,25; 338:4,4,5	solely (1) 286:14
responsibilities (2) 297:2,3		SCHAEFER (87) 320:3,16,19,21; 321:11,19,23;322:1, 6,10,13,15,19;323:8, 21;324:4;325:12,22; 326:1,3,7,9,15,17,19, 25;327:5,25;328:2; 329:7,10,16;330:1,6, 8,10,12;331:8,11,14; 332:22;333:2,7,12, 15,19,21;334:9,14; 336:8,13,17,21; 337:2,19,25;338:3, 14,16,19,22,25; 339:6,10,13,16; 340:21,24;341:3,5; 342:3,5,9,11,13; 344:14,17,20,25; 345:3,10,12,15; 347:25;348:8,11,14	Services (7) 245:21,25;246:3,5; 247:4,9,10	somebody (7) 268:10;291:21; 306:6;308:25; 321:14,16;337:9
responsible (1) 319:1		SCHAEFER (87) 320:3,16,19,21; 321:11,19,23;322:1, 6,10,13,15,19;323:8, 21;324:4;325:12,22; 326:1,3,7,9,15,17,19, 25;327:5,25;328:2; 329:7,10,16;330:1,6, 8,10,12;331:8,11,14; 332:22;333:2,7,12, 15,19,21;334:9,14; 336:8,13,17,21; 337:2,19,25;338:3, 14,16,19,22,25; 339:6,10,13,16; 340:21,24;341:3,5; 342:3,5,9,11,13; 344:14,17,20,25; 345:3,10,12,15; 347:25;348:8,11,14	set (7) 255:4,5,8;265:18; 323:13;329:21;339:1	someone (5) 270:21;304:21;
rest (2) 261:12;282:3		SCHAEFER (87) 320:3,16,19,21; 321:11,19,23;322:1, 6,10,13,15,19;323:8, 21;324:4;325:12,22; 326:1,3,7,9,15,17,19, 25;327:5,25;328:2; 329:7,10,16;330:1,6, 		

317:20;319:1;338:22 sometimes (10) 265:10,22,24; 266:4,5;270:19; 271:10,11,16;287:3 somewhere (3) 250:4;288:19; 306:21 sorry (43) 241:10;243:12,15; 244:15;245:7,9,23; 247:8;254:21; 261:14;264:7,14; 265:24;266:1;267:1; 269:1;277:15;279:4; 16,24;288:13,21; 289:13;291:8,20; 293:16;298:6;302:5; 306:3;307:4;312:19; 314:9;317:16; 320:22;321:3,18; 325:12;326:23; 328:12;329:23; 338:10;340:16;342:1 sort (1) 325:22 speak (7) 242:21;252:5; 270:20;295:19; 303:18;317:5;341:22 speaking (1) 323:25 speaks (3) 329:1;331:5; 346:23 specially (1) 278:12 specialty (1) 293:14 specific (5) 262:18;285:5; 315:1,5;343:5 specifically (1) 296:23 specificity (1) 299:5 spell (1) 242:14 spend (1) 309:14 spent (1) 284:2 split (1) 266:20 spoke (4) 244:25;280:22; 323:6;333:16 spoken (1) 347:11 Stadium (1) 338:5 staff (12) 251:5;270:4,9;	282:3;296:1;298:10, 12,13,13,15;311:23; 325:20 stamp (5) 329:8,11,12; 346:16,19 stand (1) 334:24 standard (1) 260:3 standards (2) 259:13;297:8 start (3) 287:18;306:15; 321:9 started (8) 288:2;291:25; 316:9;320:25;328:7; 331:9,10;339:4 starting (3) 270:17;306:14; 321:6 state (4) 242:14;296:19; 332:4;334:4 stated (1) 303:4 statement (7) 241:5;282:21,21; 284:15;286:12; 326:6;331:22 stating (1) 248:18 status (2) 276:10;310:16 Stay (1) 284:18 stays (1) 313:21 step (2) 248:3;250:13 Stephen (1) 259:4 stepped (1) 304:17 still (6) 258:2;311:13; 332:19;333:20; 343:18;345:17 stipulate (1) 297:7 stipulated (1) 297:9 stock (1) 243:22 stone (2) 294:12;340:1 stones (6) 271:24;273:13,13; 294:7,8;339:24 stop (1) 317:19 store (1)	338:1 stories (2) 292:21,22 strange (1) 279:1 Street (31) 244:18,19;245:20, 20,24,24;246:5; 248:19,21;270:24; 277:25;288:24,24; 292:2,4,9,17,20; 293:1;305:4,6,9; 306:19;308:4;309:9, 10;310:4,21;335:19, 21;344:2 streets (1) 292:19 stricken (2) 286:16;338:11 strike (5) 254:21;269:2; 281:6;286:12;343:14 stripe (3) 323:15,23,25 stub (4) 332:13,14,23,25 stubs (2) 333:4,10 study (1) 293:24 stuff (6) 259:7;266:6; 271:17;272:20; 281:16;299:2 subject (1) 254:24 submit (1) 345:24 submitted (1) 345:23 subpoena (6) 284:7,20;286:13; 326:5;337:18;338:9 subpoenaed (3) 284:3;333:8; 337:15 subpoenas (1) 284:3 subsequently (1) 296:16 substitute (1) 248:5 suggested (1) 318:19 Suite (13) 271:24;272:7,10; 287:7,9;289:8;290:4; 295:13;297:21; 303:25;308:23; 311:2;313:24 supervisor (1) 275:19 supervisors (2)	282:17;335:3 supplement (1) 241:19 supplies (10) 243:23;271:11,13, 14;347:2,11,12,13, 13,14 supposed (1) 286:25 Sure (45) 243:20;244:24; 247:22;250:16; 252:6;253:2,14,24; 254:12;260:22; 264:8;265:1;273:21, 25;274:9;275:5; 276:6;280:7;283:20; 284:14;289:9; 295:23;296:1;301:5; 308:3,10,12,16,20; 309:23;311:14; 315:5;316:5,6; 323:16;324:4;325:8; 326:1;332:22; 338:18;339:3,5; 340:6;342:8;346:11 surgery (1) 340:25 Susan (4) 321:16;337:12; 346:23,23 sustaining (1) 303:18 Suzanne (15) 244:13;245:1; 269:6,25;270:23; 274:20,23;275:1,1; 276:12,12;278:16; 282:2;298:19;304:5 Suzanne's (2) 277:4;298:4 SWORN (1) 242:12 system (9) 312:25;313:2,6; 314:3;316:15,17,20; 323:13;343:15	333:8 tax (5) 302:4,8,22;303:9; 328:6 tech (4) 272:7;273:1,2,4 technical (2) 297:7,10 telephone (2) 316:2;317:10 tells (4) 271:6;273:12; 291:14;347:6 temp (2) 295:14,21 temps (1) 282:3 term (1) 273:16 terms (3) 283:1;297:8;333:1 test (4) 245:17;246:23,24, 25 testified (4) 311:6;312:17; 343:14;346:23 testify (2) 329:2;347:21 testifying (1) 312:7 testimony (2) 276:14;339:19 therefore (1) 314:24 there'll (1) 266:20 thinners (2) 317:18,19 third (1) 264:8 though (4) 253:3;318:8; 323:13;332:17 thought (2) 286:17;292:6 three (11) 269:23;288:4,19, 22;297:19,20;298:3, 6;309:12;315:13; 316:9 three- (1) 274:7 Thursdays (2) 267:7,8 times (7) 271:8;297:20; 335:10,11,11;339:9; 347:22 title (3) 243:8;296:6;297:5 titled (1) 330:13
--	--	--	--	--

titles (3) 243:13;266:23,24	278:25;279:1,4,5,14, 16;293:2;295:14,15, 16;297:20;309:10; 315:22;328:23; 332:3;335:11,11; 339:8	250:8;270:25; 275:13	246:23	275:5,6;297:19; 315:13;316:9
today (8) 336:16,23;337:1,5, 6,9,13,15	16;297:20;309:10; 315:22;328:23; 332:3;335:11,11; 339:8	unredacted (1) 300:14	vaccinations (1) 246:21	weren't (1) 334:15
together (3) 270:18;314:19,24	two-thirds (1) 346:16	up (18) 242:19,21;243:22; 252:5;255:4,5,8; 265:18;271:10,16; 273:4,23;295:19; 313:17;317:5,20; 323:13;345:17	vaccine (5) 247:8,9,10;345:14, 15	West (45) 243:5;244:22; 246:22;248:11; 251:8;264:17,24; 265:12;268:19; 270:5,8;271:22; 272:16;275:8;289:2, 5,8;292:25;293:5; 295:2,13;297:3; 303:23;305:20; 308:2,9,10,13,23; 309:1,24;310:10,20; 311:2,4,10;313:25; 324:13;325:1,5; 335:4,12,14,17; 342:18
told (10) 277:12;301:3,8; 307:24;309:3; 322:18;343:7; 347:22,25;348:1	type (2) 296:21,23	upon (1) 285:5	variation (1) 287:2	what's (12) 253:11;259:10; 265:19;272:12; 278:6;290:15; 295:19;313:4;333:9; 337:20;341:10;342:6
top (11) 241:17;254:21,23; 260:2;262:14; 263:10;277:21; 283:18;300:21; 318:25;319:2	U	Umlin (1) 295:21	verify (1) 285:14	Where's (1) 302:22
topic (3) 259:11,12;342:17	Uh-uh (1) 263:20	UroChart (7) 313:5,6,9,16; 314:3;325:11,17	version (1) 300:15	Whereupon (1) 348:15
tour (4) 264:5,10,12,17	under (3) 262:19;279:8; 301:6	urologist (3) 293:20,24;295:4	view (1) 337:3	whole (11) 256:16;264:21; 278:23;281:8; 313:16;319:6,8,9,11, 17;345:7
trained (1) 268:21	underlying (1) 241:20	urologists (4) 293:19;294:2,4; 299:16	voiding (1) 243:21	who's (9) 267:22;269:1,5; 272:8;280:14;290:1; 295:16;297:16;304:9
training (8) 261:5;268:12,15, 19;269:12;325:11,12, 15	underneath (4) 252:24;253:12; 254:23;277:22	urology (39) 241:10,11,17; 243:6;244:6;250:6, 13,14,19;264:13,15, 24;287:10;290:7; 293:14,17,24;296:6, 23;297:14;308:8,11, 11,22;309:8;310:19; 311:1,19;312:25; 313:15;314:20; 324:8;326:23;335:7; 340:17;341:1; 342:17;343:9;345:9	Voir (2) 249:10,11	Wilcox (16) 241:3,5,9,11,13,16; 242:7;285:22; 296:24;297:1,9; 298:23;331:21,23; 332:1,5
transurethral (2) 342:8,14	understood (2) 278:11;282:1	use (10) 255:4;271:15,17; 300:13;307:13; 323:12;324:12; 325:11,17;343:15	W	withdraw (1) 281:15
treat (2) 316:4,5	unfair (1) 284:8	used (8) 255:3;263:18; 264:3,22;268:21; 271:19;298:13; 339:21	W-2 (2) 252:19;253:3	withdrawn (2) 281:13;316:14
trials (1) 243:22	uniform (3) 287:14,15,16	username (2) 324:20;346:4	W-4 (4) 328:13,14;330:6; 345:17	withholding (7) 284:9;302:4,8; 328:6;332:4;334:3; 346:12
tries (1) 347:3	Union (80) 241:15,23,25; 242:9;246:8,16,16; 247:12,20;248:8; 249:7,7,8,18,19,21, 22;251:18;252:7,8, 11,13;253:15,16,20, 22;255:10,10,19,19, 21,23;256:9,9;257:2, 3,10,12,12,15,17; 258:1,1,7;260:23,23; 261:8,10,15;262:2,3, 5,6,23,23,25;263:2, 14,14,23;276:9; 278:2,2;281:20; 282:25;283:4; 300:10,11,17,21; 318:24,25;319:3,11, 13;326:12;332:19; 335:15;338:6;344:10	using (2) 273:16;284:9	wage (23) 320:9,11,14,23; 321:4,7,8,15,20,23, 25;322:2,3,4,7,9,10, 16,17,18,23;323:2,6	withholdings (2) 328:23;332:3
true (1) 280:11	unionization (1) 275:11	usually (16) 265:5,9,9;266:17, 20;267:5,5,7,22,22; 270:14,15;272:5; 347:6,14;348:5	wait (1) 304:19	within (2) 296:3;314:3
truth (1) 282:20	unionize (1) 276:1	utilize (1) 286:5	waiver (1) 326:11	without (6) 241:16;277:8; 285:14;303:8; 326:11;342:5
try (4) 242:18;299:13; 303:5;321:19	unions (1) 276:7	V	waiving (1) 332:20	witness (105) 242:8,12,15,20;
trying (5) 242:18;294:1; 312:11;315:6;321:19	Union's (2) 332:17;344:15	vacation (1) 295:8	walk (2) 272:6;305:10	
tucks (1) 271:15	unit (4) 290:22;297:8; 310:15;312:8	vaccination (1)	wants (2) 302:18;345:13	
TUNA (6) 341:21,24,25; 342:2,6,13	unless (3)		way (5) 264:8;268:3; 276:22;294:21; 346:16	
T-U-N-A (3) 342:3,11,12			wear (3) 287:14,15,16	
turn (2) 260:1;333:16			web (10) 253:12;336:1,5,6,8, 9;346:1,2,3,7	
T-U-V-A (1) 342:10			website (7) 244:3;253:2,4; 301:11,12,13;302:3	
two (32) 248:18;254:5,8; 256:19;265:5; 266:18,19,20,21; 267:12;268:24; 270:15;275:5,6;			Wednesday (1) 267:5	
			week (2) 271:8;339:1	
			weeks (5)	

243:16;246:1,3,6; 249:16;250:24; 251:1,3,9;252:6; 253:5,7,8;254:6,14; 256:12,18,21,24; 261:7;263:17,20; 271:10;272:22; 273:20,25;275:8; 276:16;277:11,15,17, 19;282:2;285:5,7,13; 286:2,9;290:8,11,14, 17,19,25;294:17,19; 295:17,21,23;297:24; 300:17;303:10; 304:14,16;307:15,18, 20;311:5,24,25; 312:7,16,21;318:9, 13;320:22;321:21, 25;322:4,9,12,14,18; 323:10,25;324:4; 325:23;327:7;329:2, 9,12,17;330:16; 331:10,13;336:10; 338:18,21,24;339:3, 8,12;341:2,4,6;342:2, 4,7,12;348:1,10 witness' (1) 323:22 witnesses (4) 284:6,7,10;286:4 Wood (9) 274:23;275:1; 276:12,12;278:16; 291:3,7;334:19; 346:23 word (1) 294:16 words (1) 307:13 work (66) 243:5;250:19,25; 251:8;255:3;264:15, 23;265:11,15;266:21, 21;267:12,21; 268:21;270:13,17; 277:7;278:17;281:9; 286:24;287:5,7,12; 288:18,19;289:1,3,4, 5,7,9,11,20,21;291:3, 15,22;297:18;299:2, 6;301:9,11;303:9,22, 25;304:2;309:1,18, 20,24;310:3,20; 314:7,19,24;315:8; 316:7,22;320:25; 324:15;325:20; 340:9,23;343:9; 347:6,22 workday (1) 288:1 worked (14) 268:24;288:1,4,22; 289:24;290:3;292:1;	297:20;301:3;310:9; 312:14;315:14; 316:10;334:20 workers (1) 280:13 working (19) 250:13;251:5,6; 267:10,19,23;268:18; 287:18;290:13; 291:25;305:11; 308:1,8,11,14,17,22; 309:15;339:4 works (11) 277:10,11;279:11; 295:13;297:14; 316:23;317:8;325:5; 334:22;337:23; 340:19 wound (2) 241:8;326:22 write (2) 279:2;303:13 written (1) 259:5 wrong (2) 336:23;337:1 wrote (1) 241:17	312:8,10;334:4; 336:10;341:3; 342:19,23;343:1,25 Z Zoltan (2) 265:2;290:2		
	X			
	x-ray (12) 271:21;272:7,9; 273:1,2,3,7,12,17,18, 19,23 x-rays (1) 271:25			
	Y			
	Yanke (1) 265:2 Yankee (1) 338:5 year (2) 323:3;339:1 yellow (4) 323:15,20,23,25 yesterday (5) 276:14;300:5,7; 331:20;332:24 York (44) 244:3;247:11; 251:23;270:24; 272:15;276:21; 277:11;278:1; 279:11;282:7,18,21; 283:14;286:3,7,15; 290:20,24;292:1,16, 22,25;293:5,8,11,12; 296:19;301:7,11; 302:3;308:15;309:8; 310:3,20;311:11;			

In The Matter Of:
*NEW YORK METHODIST MSOB of Kings
County and
1199 SEIU, UNITED HEALTHCARE
WORKERS EAST*

*Vol. 4
April 11, 2016*

*Burke Court Reporting, LLC
1044 Route 23, Suite 316
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Original File NY Methodist vol 4.prn

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Page 350		Page 352					
BEFORE THE NATIONAL LABOR RELATIONS BOARD		WITNESSDIRECTCROSSREDIRECTRECROSSDIRE					
In the Matter of: NEW YORK METHODIST (MSO) OF KINGS COUNTY, LLC, Employer, And 1199 SEIU, UNITED HEALTHCARE WORKERS, INC., Petitioner.		Carmen Lorenzo354381425404 409 Jeanette Martinez429456485463					
The above-entitled matter came on for hearing pursuant to Adjournment before ERIN SCHAEFER, Hearing Officer, at the National Labor Relations Board, Region 29, 2 Metro Tech, Brooklyn, New York, in Hearing Room 1, on Monday, April 11, 2016, at 9:30 a.m.							
BURKE COURT REPORTING, LLC 1044 Route 23 North, Suite 316 Wayne, New Jersey 07470		BURKE COURT REPORTING, LLC 1044 Route 23 North, Suite 316 Wayne, New Jersey 07470					

Page 351	Page 353
A P P E A R A N C E S	P R O C E E D I N G S
On behalf of the Employer: JAMES S. FRANK, ESQUIRE DONALD S. KRUEGER, ESQUIRE DANIEL J. GREEN, ESQUIRE Epstein, Becker & Green, P.C. 250 Park Avenue New York, New York 10177 (212) 3513720 jfrank@ebglaw.com On Behalf of the Petitioner: GWYNNE A. WILCOX, ESQUIRE ALEKSANDR L. FELSTINER, ESQUIRE Levy Ratner P.C. 80 Eighth Avenue, 8th Floor New York, New York 10011 (212) 627-8100 gwilcox@levyratner.com	1
I N D E X	
VOIR BURKE COURT REPORTING, LLC 1044 Route 23 North, Suite 316 Wayne, New Jersey 07470	

<p style="text-align: right;">Page 354</p> <p>1 (Time Noted: 11:52 a.m.)</p> <p>2 HEARING OFFICER SCHAEFER: <small>All rights, under 1 page and 10</small></p> <p>3 record.</p> <p>4 So this is the record in case</p> <p>5 Sorry, it's 29-RC-172398 or 29-RC-172398. The Hearing</p> <p>6 office is Erin Schaefer. Today is April 11th, 2016.</p> <p>7 Is the Petitioner prepared to call in this case its first</p> <p>8 witness?</p> <p>9 MR. FELSTINER: Yes.</p> <p>10 HEARING OFFICER SCHAEFER: Okay.</p>	<p style="text-align: right;">Page 356</p> <p>1 Q. Yeah, roughly speaking when did you have an interview?</p> <p>2 A. In May.</p> <p>3 Q. Who conducted your interview?</p> <p>4 A. Erica. I don't know her last name.</p> <p>5 Q. Where was that interview?</p> <p>6 A. At the 9th Street HR Department.</p> <p>7 Q. Is that 435 9th Street?</p> <p>8 A. Yes.</p> <p>9 Q. Were you interviewed by anybody else?</p> <p>10 A. The same day Erica told me to go meet with Karen in the</p> <p>11 MSO-3 and interviewed with Karen.</p> <p>12 Q. Karen's last name?</p> <p>13 A. Chain.</p> <p>14 HEARING OFFICER SCHAEFER: <small>Chan?</small></p> <p>15 MS. WILCOX: C-h-a-n.</p> <p>16 HEARING OFFICER SCHAEFER: <small>Chan?</small></p> <p>17 BY MR. FELSTINER:</p> <p>18 Q. You said at the MSO-3?</p> <p>19 A. Yes.</p> <p>20 Q. Do you recall where?</p> <p>21 A. The 6th floor. I don't remember the clinic name.</p> <p>22 HEARING OFFICER SCHAEFER: <small>Chan?</small></p> <p>23 that's New York Methodist?</p> <p>24 THE WITNESS: Yes, at 506.</p> <p>25 HEARING OFFICER SCHAEFER: <small>506 6th Street?</small></p> <p>26 THE WITNESS: 6th Street.</p>
<p style="text-align: right;">Page 355</p> <p>1 Q. Ms. Lorenzo, you work at One Prospect Park West?</p> <p>2 A. Yes.</p> <p>3 Q. Where do you work?</p> <p>4 A. I work at the Wound Care Center Suite B in the front</p> <p>5 desk.</p> <p>6 MR. KRUEGER: I'm sorry, could you keep your voice up?</p> <p>7 I can't hear you.</p> <p>8 THE WITNESS: I work in the front, Suite B.</p> <p>9 HEARING OFFICER SCHAEFER: <small>Chan?</small></p> <p>10 THE WITNESS: Um-hum.</p> <p>11 BY MR. FELSTINER:</p> <p>12 Q. When did you start?</p> <p>13 A. May 2014.</p> <p>14 Q. How did you submit your application for employment?</p> <p>15 A. I went through the New York Methodist website.</p> <p>16 Q. Can you describe that process a little bit more?</p> <p>17 A. Well, in detail I went to Indeed and then Indeed guide me</p> <p>18 through the New York Methodist website. You create a log in</p> <p>19 and a user name and then answer all the questions.</p> <p>20 Q. Anything in particular that you need to do at the end to</p> <p>21 submit it?</p> <p>22 A. Just hit submit.</p> <p>23 Q. Were you interviewed?</p> <p>24 A. Yes.</p> <p>25 Q. When were you interviewed?</p> <p>26 A. When?</p>	<p style="text-align: right;">Page 357</p> <p>1 BY MR. FELSTINER:</p> <p>2 Q. When -- roughly speaking when did you learn that you'd</p> <p>3 gotten the job?</p> <p>4 A. Two weeks later.</p> <p>5 Q. And how did you learn that?</p> <p>6 A. Through the phone. I got a phone call from Erica.</p> <p>7 Q. Did you receive any further communications after this</p> <p>8 phone call about the application process?</p> <p>9 A. That same day I received an e-mail.</p> <p>10 Q. I'm going to show you a document.</p> <p>11 HEARING OFFICER SCHAEFER: <small>Chan?</small></p> <p>12 as Union 1.</p> <p>13 MR. FELSTINER: Yeah, this should be Union 1.</p> <p>14 (Union's Exhibit 1 identified.)</p> <p>15 MR. KRUEGER: I'm sorry, what is the number on this?</p> <p>16 HEARING OFFICER SCHAEFER: One.</p> <p>17 BY MR. FELSTINER:</p> <p>18 Q. Ms. Lorenzo, do you recognize this document?</p> <p>19 A. Yes, this was an e-mail sent to me from Erica.</p> <p>20 Q. I'm going to show you another document.</p> <p>21 (Union's Exhibit 2 identified.)</p> <p>22 BY MR. FELSTINER:</p> <p>23 Q. Take a look. Do you recall this?</p> <p>24 A. Yes.</p> <p>25 Q. What is this?</p> <p>26 A. Also an e-mail sent to me from Erica.</p>

<p style="text-align: right;">Page 358</p> <p>1 Q. I'm looking at the date at the top, Wednesday, 5/7/14. 2 A. Um-hum. 3 Q. Is that when you received this second e-mail? 4 A. Yes. 5 Q. And on the first page that I handed you that's marked as 6 Union 1, it says Wednesday, 5/14 at the top. Is that when you 7 received this e-mail? 8 A. Yes. 9 Q. Are these true and correct copies of the e-mails that you 10 received? 11 A. Yes. 12 MR. FELSTINER: The Union offers Union 1 and the second 13 document as Union 2 into evidence. 14 HEARING OFFICER SCHAEFER: <small>He heard them read.</small> 15 still reading. 16 MR. FRANK: No objection. 17 HEARING OFFICER SCHAEFER: <small>He heard them read.</small> 18 admitted into evidence. 19 (Union's Exhibits 1 and 2 received.) 20 21 BY MR. FELSTINER: 22 Q. Ms. Lorenzo, did you receive an ID card? 23 A. Yes. 24 Q. Where did you go to get it? 25 A. The Human Resource Office. 26 Q. Which Human Resource Office?</p>	<p style="text-align: right;">Page 360</p> <p>1 A. They work at other departments in the MSO-3. 2 Q. Did you visit any other locations during your 3 orientation? 4 A. In part of the orientation we were given a tour of the 5 MSO-3. 6 Q. Methodist MSO-3? 7 A. Yes. 8 Q. Where did you go? 9 A. I don't remember exactly where, but I remember like we 10 went to the Meeny Pavilion, I think it was called. We just 11 got a little rough tour of the MSO-3. I don't remember the 12 exact name of each building we went to. 13 Q. Did you receive any documents as part of this 14 orientation? 15 A. Yes. 16 Q. What did you receive? 17 A. I received a lot of documents, actually. So I don't 18 remember offhand, but I remember seeing like policies. I 19 don't really remember. 20 Q. Fair enough. Were they given to you one-by-one or 21 altogether? 22 A. Altogether. The person conducting the orientation, she 23 came in with a lot of folders and hand them all to us. 24 Q. Everybody received the same folder? 25 A. Yes. 26 Q. Can you describe your job duties at the Wound Care Center</p>
<p style="text-align: right;">Page 359</p> <p>1 A. The one on 9th Street. 2 Q. Did you have to submit to a drug test? 3 A. Yes. 4 Q. Where was that performed? 5 A. The Employee Health Center. 6 Q. Which is located where? 7 A. Across the street from the MSO-3. 8 Q. Did you have to perform a -- sorry, strike that. 9 Did you have to undergo a physical before you began 10 employment? 11 A. Yes. 12 Q. Where was that performed? 13 A. Same place, Employee Health Center. 14 Q. Was that on the same day? 15 A. (No verbal response.) 16 Q. Did you attend an orientation before you began working at 17 One Prospect Park West? 18 A. Yes. 19 Q. Where was your orientation? 20 A. In the Human -- in 9th Street, the Human Resource. 21 Q. Any other employees present at the orientation? 22 A. Yes. 23 Q. Did any of them work at the Wound Care Center at One 24 Prospect Park West? 25 A. No. 26 Q. Where did they work, if you know?</p>	<p style="text-align: right;">Page 361</p> <p>1 on Prospect Park? 2 A. I greet the patient when they come in. I schedule 3 appointment, call insurance to get authorizations. I 4 discharge a patient by giving him appointment or if they need 5 further instruction I'll let them know which doctor they need 6 to follow up with. 7 Occasionally I translate for the Wound Care Center in 8 Spanish. If I need to contact a doctor to get results, I do 9 that also for the patient. Answer the phone. I think that 10 summarizes most of it. 11 Q. Which doctors work in Suite B? 12 A. In Suite B we have Dr. Mundy 13 MR. FRANK: I'm sorry? 14 THE WITNESS: Dr. Mundy. 15 HEARING OFFICER SCHAEFER: <small>Thank you.</small> 16 that? 17 THE WITNESS: M-u-n-d-y. 18 HEARING OFFICER SCHAEFER: <small>Thank you.</small> 19 THE WITNESS: Dr. Hubsher, Dr. -- 20 BY MR. FELSTINER: 21 Q. Is that H-u-b-s-h-e-r? 22 A. Yes. 23 Q. Okay. 24 A. Dr. Saltikov, Dr. Soave and Dr. Clarke. 25 Q. How many doctors are in Suite B on an average day? 26 A. On an average day?</p>

Page 362	Page 364
<p>1 Q. Well, I'm going to ask you -- go ahead and answer.</p> <p>2 MR. FRANK: I was missing the hand gestures.</p> <p>3 MR. FELSTINER: I'm sorry, she started to answer so I</p> <p>4 wasn't sure if I should withdraw or let her continue, but I'll</p> <p>5 --</p> <p>6 THE WITNESS: Sorry.</p> <p>7 BY MR. FELSTINER:</p> <p>8 Q. That's okay.</p> <p>9 HEARING OFFICER SCHAEFER: <small>He is not speaking.</small></p> <p>10 question?</p> <p>11 MR. FELSTINER: Yeah, I think I will if that's all</p> <p>12 right.</p> <p>13 BY MR. FELSTINER:</p> <p>14 Q. Is there a schedule for -- you've mentioned a number of</p> <p>15 doctors. Is there a schedule for how they're assigned?</p> <p>16 A. Yes.</p> <p>17 Q. Can you describe the schedule?</p> <p>18 A. Every day we have a different wound care doctor scheduled</p> <p>19 and twice a week we'll have a podiatrist that does wound care</p> <p>20 to come in.</p> <p>21 Q. Who are the wound care doctors?</p> <p>22 A. Dr. Mundy, Dr. Saltikov and Dr. Hubsher.</p> <p>23 Q. Each day one of those three would be assigned?</p> <p>24 A. Yes.</p> <p>25 Q. Do they also work at the MSO-3?</p> <p>26 A. Yes.</p>	<p>1 MR. FRANK: Objection as to relevance. Who sets the</p> <p>2 doctor's schedule?</p> <p>3 HEARING OFFICER SCHAEFER: <small>Overruled.</small></p> <p>4 MR. FELSTINER: Petitioner is attempting to establish</p> <p>5 common management here. The doctors spend some of their time</p> <p>6 at the MSO-3 and some of their time at the Wound Care Center.</p> <p>7 MR. FRANK: Doctors are not MSO-3 employees.</p> <p>8 HEARING OFFICER SCHAEFER: <small>He is not speaking.</small></p> <p>9 THE WITNESS: Well, they're --</p> <p>10 MR. FRANK: No, they're not.</p> <p>11 HEARING OFFICER SCHAEFER: Okay.</p> <p>12 MR. FELSTINER: I'm not speaking as to who employs them,</p> <p>13 I'm talking about their job as managers.</p> <p>14 HEARING OFFICER SCHAEFER: <small>Who decides that?</small></p> <p>15 MR. FRANK: Excuse me. Physicians aren't managers,</p> <p>16 they're physicians.</p> <p>17 MR. FELSTINER: That's an argument that you can make,</p> <p>18 but that's not Petitioner's argument.</p> <p>19 HEARING OFFICER SCHAEFER: <small>He is not speaking.</small></p> <p>20 the doctors to go to MS -- to NY, New York Methodist?</p> <p>21 MR. FELSTINER: I'm trying to determine how -- where the</p> <p>22 schedule comes from.</p> <p>23 HEARING OFFICER SCHAEFER: <small>Please, let him finish.</small></p> <p>24 even going to know who tells the doctors to go where? I'm not</p> <p>25 sure this question's proper for the witness in any event.</p> <p>26 She'd be --</p>
Page 363	Page 365
<p>1 MR. FRANK: Objection, there's no foundation for that.</p> <p>2 BY MR. FELSTINER:</p> <p>3 Q. If you know.</p> <p>4 HEARING OFFICER SCHAEFER: <small>If you know.</small></p> <p>5 THE WITNESS: Yes.</p> <p>6 HEARING OFFICER SCHAEFER: <small>How do you know?</small></p> <p>7 THE WITNESS: Because they have the Methodist ID and</p> <p>8 they report to the ER.</p> <p>9 HEARING OFFICER SCHAEFER: <small>He is not speaking.</small></p> <p>10 to the ER, do they tell you they're going to the ER?</p> <p>11 THE WITNESS: Because if we need to contact them, we</p> <p>12 contact them at the ER.</p> <p>13 HEARING OFFICER SCHAEFER: <small>He is not speaking.</small></p> <p>14 THE WITNESS: Um-hum.</p> <p>15 HEARING OFFICER SCHAEFER: Okay.</p> <p>16 MR. FRANK: Wait, she has to answer.</p> <p>17 HEARING OFFICER SCHAEFER: <small>Yes, she has to answer.</small></p> <p>18 BY MR. FELSTINER:</p> <p>19 Q. Yeah, you have to say yes or no.</p> <p>20 A. Oh.</p> <p>21 HEARING OFFICER SCHAEFER: <small>Oh, she said yes. Now --</small></p> <p>22 THE WITNESS: Sorry.</p> <p>23 HEARING OFFICER SCHAEFER: Yeah.</p> <p>24 BY MR. FELSTINER:</p> <p>25 Q. Who sets the schedule for which wound care doctor is at</p> <p>26 Prospect Park West, is you know?</p>	<p>1 MR. FELSTINER: I can attempt to get the schedule</p> <p>2 information in another line of questioning.</p> <p>3 HEARING OFFICER SCHAEFER: <small>Okay, yeah.</small></p> <p>4 BY MR. FELSTINER:</p> <p>5 Q. Do you receive a schedule of the doctors?</p> <p>6 A. Yes.</p> <p>7 Q. Who sends it to you?</p> <p>8 A. The Emergency Room.</p> <p>9 HEARING OFFICER SCHAEFER: <small>He is not speaking.</small></p> <p>10 receive it?</p> <p>11 THE WITNESS: It's faxed.</p> <p>12 HEARING OFFICER SCHAEFER: <small>It's faxed?</small></p> <p>13 THE WITNESS: Um-hum.</p> <p>14 HEARING OFFICER SCHAEFER: <small>He is not speaking.</small></p> <p>15 copy of the doctors' schedules to your office?</p> <p>16 THE WITNESS: Yes.</p> <p>17 HEARING OFFICER SCHAEFER: Okay.</p> <p>18 BY MR. FELSTINER:</p> <p>19 Q. The Emergency Room of?</p> <p>20 A. New York Methodist.</p> <p>21 Q. Okay. Now, you mentioned the podiatry doctors. Their</p> <p>22 names again?</p> <p>23 A. Dr. Soave and Dr. Clarke.</p> <p>24 Q. And when are they in the office?</p> <p>25 A. Dr. Soave's in the office on Monday, Tuesday and</p> <p>26 Thursday. Dr. Clarke is in the office on Monday and</p>

Page 366	Page 368
<p>1 Wednesday.</p> <p>2 Q. When Dr. Soave or Dr. Clarke are in the office what kind</p> <p>3 of patients do they see?</p> <p>4 MR. FRANK: Objection.</p> <p>5 HEARING OFFICER SCHAEFER: <small>Can we get a general</small></p> <p>6 understanding of what --</p> <p>7 MR. FRANK: What is the relevance of what physicians do</p> <p>8 or what the podiatrists do? That's not in the petition for a</p> <p>9 unit.</p> <p>10 HEARING OFFICER SCHAEFER: <small>Well, I think we need to</small></p> <p>11 establish first like what the Wound Care Department -- or what</p> <p>12 this wound care practice treats because I don't think that's</p> <p>13 on the record too because I do think it goes to community of</p> <p>14 interest concerns, particularly as you've raised that.</p> <p>15 MR. FRANK: As to what the physicians do or what kind of</p> <p>16 --</p> <p>17 HEARING OFFICER SCHAEFER: <small>I think it goes to what</small></p> <p>18 being done in the office so I'm not primarily concerned with</p> <p>19 what the physicians do. I am concerned with what the</p> <p>20 character of the office is and so --</p> <p>21 MR. FRANK: But the question was what the physicians do.</p> <p>22 There was no questions about what the employee on the witness</p> <p>23 stand does. The question was what kind of patients do the</p> <p>24 physicians see. I don't see how that's relevant because --</p> <p>25 HEARING OFFICER SCHAEFER: <small>-----</small></p> <p>26 and I think the question should be rephrased. I do think it's</p>	<p>1 THE WITNESS: I just do mostly the front, all the</p> <p>2 paperwork.</p> <p>3 HEARING OFFICER SCHAEFER: <small>Okay, all right.</small></p> <p>4 BY MR. FELSTINER:</p> <p>5 Q. Do you greet patients who come in for wound care</p> <p>6 treatment?</p> <p>7 A. Yes.</p> <p>8 Q. Do you greet patients who come in for treatment on their</p> <p>9 feet or ankles?</p> <p>10 A. Yes.</p> <p>11 MR. FRANK: Objection. This is a question not</p> <p>12 pertaining to the petitioned for unit.</p> <p>13 MR. FELSTINER: It's in the same ===</p> <p>14 MR. FRANK: It's a separate --</p> <p>15 HEARING OFFICER SCHAEFER: <small>-----</small></p> <p>16 question, but I think we've had -- for that particular</p> <p>17 question because it also goes to what this employee does on a</p> <p>18 daily basis. To the extent that the petitioned for unit does</p> <p>19 not include the foot and ankle individuals that's noted for</p> <p>20 the record and the reader of the record is going to take --</p> <p>21 we're not going to get into foot and ankle.</p> <p>22 I understand your objection and I'm going to limit them.</p> <p>23 MR. FELSTINER: All right.</p> <p>24 BY MR. FELSTINER:</p> <p>25 Q. You mentioned Karen Chan. What's her position?</p> <p>26 A. She's a Director.</p>
Page 367	Page 369
<p>1 relevant what the office does. To the extent that the</p> <p>2 physicians are responsible for carrying out portions of the</p> <p>3 office's patient care I think we're going to allow some of it,</p> <p>4 but let's establish first --</p> <p>5 MR. FRANK: And also for the record, the Foot Care</p> <p>6 Center which was not in the petitioned for unit. This is</p> <p>7 going to be on the petitioned for unit.</p> <p>8 HEARING OFFICER SCHAEFER: <small>Do the witness that the</small></p> <p>9 questions veer into that area, I will be vigilant. Let's</p> <p>10 start -- let's break this down and start with the wound care,</p> <p>11 if the witness knows, what type of patients do they treat?</p> <p>12 MR. FRANK: What is that?</p> <p>13 HEARING OFFICER SCHAEFER: <small>What type of patients do</small></p> <p>14 if you know, what type of illnesses or I guess --</p> <p>15 MR. FRANK: What kind of care?</p> <p>16 HEARING OFFICER SCHAEFER: <small>Can we establish what</small></p> <p>17 given at the Wound Care facility?</p> <p>18 THE WITNESS: So mostly they treat like diabetics that</p> <p>19 have non-healing wound, ulcers, like bed sores. We also do</p> <p>20 hyperbaric treatment for patients to help treat their wounds.</p> <p>21 That's more of a general what they do and also on certain days</p> <p>22 we do treat foot wounds.</p> <p>23 HEARING OFFICER SCHAEFER: <small>Okay, I understand.</small></p> <p>24 any patient care?</p> <p>25 THE WITNESS: No. I do --</p> <p>26 HEARING OFFICER SCHAEFER: <small>Do the witness know</small></p>	<p>1 Q. Is she in the office every day?</p> <p>2 A. Yes.</p> <p>3 Q. If you know, does she ever have meetings outside the</p> <p>4 office?</p> <p>5 A. Yes.</p> <p>6 Q. Where does she have meetings, if you know?</p> <p>7 MR. FRANK: Objection.</p> <p>8 HEARING OFFICER SCHAEFER: <small>Do the witness know</small></p> <p>9 BY MR. FELSTINER:</p> <p>10 Q. If you know?</p> <p>11 A. In the MSO-3.</p> <p>12 Q. About how often?</p> <p>13 A. More than once a week, at least twice.</p> <p>14 Q. And if you know, who does she report to?</p> <p>15 A. She often says Jennifer Donovan.</p> <p>16 HEARING OFFICER SCHAEFER: <small>-----</small></p> <p>17 she's meeting with?</p> <p>18 THE WITNESS: Because she tells I'm going to go meet up</p> <p>19 with Jennifer Donovan.</p> <p>20 HEARING OFFICER SCHAEFER: <small>-----</small></p> <p>21 or is she --</p> <p>22 THE WITNESS: She's a registered nurse.</p> <p>23 HEARING OFFICER SCHAEFER: <small>Okay, Thank you.</small></p> <p>24 BY MR. FELSTINER:</p> <p>25 Q. Has Jennifer Donovan ever visited the office when you</p> <p>26 were there?</p>

<p style="text-align: right;">Page 370</p> <p>1 A. Yes.</p> <p>2 Q. When?</p> <p>3 A. She visited a couple of times. One time was we had a</p> <p>4 little complication with some paint, they were debating over a</p> <p>5 paint color. Another time was when the State came to inspect</p> <p>6 the office when we had a flood and that's all that I could</p> <p>7 remember.</p> <p>8 Q. Apart from the doctors and Ms. Chan there are other</p> <p>9 employees in Suite B, correct?</p> <p>10 A. Yes.</p> <p>11 Q. Who else works in Suite B? Strike that.</p> <p>12 Actually do you ever have to send mailings to patients?</p> <p>13 A. Yes.</p> <p>14 Q. As part of your job?</p> <p>15 A. Yes.</p> <p>16 Q. Do you prepare the physical documents?</p> <p>17 A. Yes.</p> <p>18 Q. Do you mail them out of your office?</p> <p>19 A. No, we put them in the bin and then they come and pick it</p> <p>20 up from the MSO-3.</p> <p>21 Q. Who picks it up?</p> <p>22 A. His name is Mark. I'm not sure about the last name.</p> <p>23 Q. So you put it in a -- you said he picks it up from a bin?</p> <p>24 A. Oh, it's one of the doors, like a little basket, I guess.</p> <p>25 Q. Does he pick up anything else?</p> <p>26 A. The dirty linen. If they need tools to be sent out to be</p>	<p style="text-align: right;">Page 372</p> <p>1 A. Yes.</p> <p>2 Q. Same courier?</p> <p>3 A. Yes.</p> <p>4 Q. Do you take information from patients when they arrive?</p> <p>5 A. Yes.</p> <p>6 Q. You use a software system for that?</p> <p>7 A. Yes.</p> <p>8 Q. What system?</p> <p>9 A. It depends if the patient's been to the MSO-3 or not.</p> <p>10 Q. Okay.</p> <p>11 A. So if the patient's been to the MSO-3 I go on Cerner and</p> <p>12 get the demographic from there. If the patient hasn't been to</p> <p>13 the MSO-3 I go on Eagle and create a record for them. I can</p> <p>14 put in all the information.</p> <p>15 HEARING OFFICER SCHAEFER: _____</p> <p>16 is that S-e-r-n-a?</p> <p>17 THE WITNESS: Um-hum.</p> <p>18 HEARING OFFICER SCHAEFER: Or is it --</p> <p>19 MR. FELSTINER: I believe C-e-r-n-e-r. Does that sound</p> <p>20 right?</p> <p>21 HEARING OFFICER SCHAEFER: _____</p> <p>22 one is Eagle?</p> <p>23 THE WITNESS: Yeah.</p> <p>24 HEARING OFFICER SCHAEFER: _____</p> <p>25 BY MR. FELSTINER:</p> <p>26 Q. You have access to Cerner at your computer terminal?</p>
<p style="text-align: right;">Page 371</p> <p>1 cleaned he'll pick that up too, any documents that are going</p> <p>2 to be sent to a different office in the MSO-3. That's about</p> <p>3 it.</p> <p>4 Q. How often does he come?</p> <p>5 A. Every day.</p> <p>6 Q. Does he drop anything off?</p> <p>7 A. Yes.</p> <p>8 Q. Like what?</p> <p>9 A. He drops mail back from the MSO-3 to us. He drops the</p> <p>10 clean linen back. He drops cookies and juice for the patient,</p> <p>11 anything the -- that's really it.</p> <p>12 Q. Are you involved in ordering supplies?</p> <p>13 A. No.</p> <p>14 Q. Who takes that responsibility?</p> <p>15 A. Karen.</p> <p>16 Q. Have you observed supplies being delivered?</p> <p>17 A. Yes.</p> <p>18 Q. Who delivers the supplies?</p> <p>19 A. I'm not sure.</p> <p>20 Q. How about the juice and cookies, do you order those?</p> <p>21 A. No, Damarys does.</p> <p>22 Q. Who's Damarys?</p> <p>23 A. She works in the front with me.</p> <p>24 Q. If you know, where does she order them from?</p> <p>25 A. The kitchen, the New York Methodist kitchen.</p> <p>26 Q. Once instruments have been sterilized do they come back?</p>	<p style="text-align: right;">Page 373</p> <p>1 A. Yes.</p> <p>2 Q. Eagle as well?</p> <p>3 A. Um-hum.</p> <p>4 COURT REPORTER: Yes?</p> <p>5 THE WITNESS: Yes. And then --</p> <p>6 BY MR. FELSTINER:</p> <p>7 Q. If you need to get a patient's records from Methodist</p> <p>8 MSO-3 you can access them from your --</p> <p>9 A. Yes.</p> <p>10 Q. -- terminal? How about punching in, do you use software</p> <p>11 for that?</p> <p>12 A. Yes.</p> <p>13 Q. What do you use?</p> <p>14 A. Kronos.</p> <p>15 Q. Where do you punch in?</p> <p>16 A. From my computer.</p> <p>17 Q. Is your computer located at the front desk?</p> <p>18 A. Yes.</p> <p>19 Q. If you have an IT problem -- so strike that.</p> <p>20 Have you ever had any problems with information</p> <p>21 technology?</p> <p>22 A. Yes.</p> <p>23 Q. Who do you contact?</p> <p>24 A. I usually contact the MSO-3 main number and have them</p> <p>25 transfer me to IT.</p> <p>26 Q. Have they assisted you?</p>

Page 374	Page 376
<p>1 A. Yes.</p> <p>2 Q. Does anyone ever come out to your site to assist you?</p> <p>3 A. Yes, when we have problems with the printer they came.</p> <p>4 Q. Did they come from that office that you called?</p> <p>5 A. Yes, the IT.</p> <p>6 HEARING OFFICER SCHAEFER: <small>He has given it to</small></p> <p>7 recall, wearing the New York Methodist ID?</p> <p>8 THE WITNESS: They had a New York Methodist ID.</p> <p>9 HEARING OFFICER SCHAEFER: <small>He has given it to</small></p> <p>10 shirts or clothes that had New York Methodist on them?</p> <p>11 THE WITNESS: No.</p> <p>12 HEARING OFFICER SCHAEFER: <small>No, okay.</small></p> <p>13 BY MR. FELSTINER:</p> <p>14 Q. Do you have access to the New York Methodist Intranet?</p> <p>15 A. Yes.</p> <p>16 Q. Have you ever accessed it from --</p> <p>17 A. Yes.</p> <p>18 Q. -- from -- let me finish. Have you ever accessed it from</p> <p>19 your computer terminal at One Prospect Park West?</p> <p>20 A. Yes.</p> <p>21 Q. For what purpose?</p> <p>22 A. To go to my e-mail, to look at my paystub, to look up</p> <p>23 doctor's phone number.</p> <p>24 Q. What is your e-mail address?</p> <p>25 A. C -- for the MSO-3 or my personal one?</p> <p>26 Q. Well, what e-mail address do you use for work purposes?</p>	<p>1 MR. FRANK: I'm sorry, I didn't hear that.</p> <p>2 THE WITNESS: At the MSO-3.</p> <p>3 BY MR. FELSTINER:</p> <p>4 Q. Have you received any training on emergency procedures?</p> <p>5 A. Yes.</p> <p>6 Q. Where is that training conducted?</p> <p>7 A. At One Prospect Park West.</p> <p>8 Q. Who conducts it?</p> <p>9 A. I'm not sure about his name.</p> <p>10 Q. About how often does the training take place?</p> <p>11 A. How often? I'm not sure. I probably have saw him three</p> <p>12 times last year.</p> <p>13 Q. If you know, do you know whether he came from the MSO-3?</p> <p>14 A. Yes.</p> <p>15 Q. How do you know?</p> <p>16 A. He has an ID.</p> <p>17 Q. Do you have access to tuition reimbursement benefits?</p> <p>18 A. Yes.</p> <p>19 Q. Have you taken advantage of them?</p> <p>20 A. Yes.</p> <p>21 Q. Can you describe what you're studying?</p> <p>22 A. I took a few classes. Do you want me to tell you the</p> <p>23 course name?</p> <p>24 Q. When was this?</p> <p>25 A. Last summer and fall.</p> <p>26 Q. How do you apply for reimbursement?</p>
Page 375	Page 377
<p>1 A. cml9011@nyp.org.</p> <p>2 Q. You said you looked up your paycheck?</p> <p>3 A. Yes.</p> <p>4 Q. Did you use the Intranet for that?</p> <p>5 A. Yes. It takes you to -- you have to go there to take you</p> <p>6 to the link.</p> <p>7 Q. Is that password protected?</p> <p>8 A. Yes.</p> <p>9 Q. On that software have you ever received training to</p> <p>10 operate it?</p> <p>11 MR. FRANK: <small>Objection to form. What software were you</small></p> <p>12 referring to?</p> <p>13 BY MR. FELSTINER:</p> <p>14 Q. Have you ever received training to operate the Cerner</p> <p>15 software?</p> <p>16 A. Yes.</p> <p>17 Q. Where was that training provided?</p> <p>18 A. In One Prospect Park West.</p> <p>19 Q. And who provided it?</p> <p>20 A. Her name was Maritza. She came and trained us from the</p> <p>21 MSO-3.</p> <p>22 Q. How about training on the Eagle software, have you ever</p> <p>23 received training on the Eagle software?</p> <p>24 A. Yes.</p> <p>25 Q. Where was that training conducted?</p> <p>26 A. In the MSO-3.</p>	<p>1 A. I submit application through the New York Methodist</p> <p>2 website and I print it out and I fill it out and then I fax it</p> <p>3 over to the Human Resource Department. It has the number on</p> <p>4 the top to fax it to.</p> <p>5 Q. How does the tuition reimbursement benefit work?</p> <p>6 A. So basically they pay the tuition and you sign, I guess,</p> <p>7 a promise that you will pay back the time. They reimburse</p> <p>8 you, you owe them two years of employment.</p> <p>9 HEARING OFFICER SCHAEFER: <small>He has given it to</small></p> <p>10 unlimited classes or is it --</p> <p>11 THE WITNESS: No. It has to be related to your job.</p> <p>12 HEARING OFFICER SCHAEFER: <small>He has given it to</small></p> <p>13 you take like in a year?</p> <p>14 THE WITNESS: You have to take up to \$9,000 worth of</p> <p>15 class.</p> <p>16 HEARING OFFICER SCHAEFER: Okay.</p> <p>17 BY MR. FELSTINER:</p> <p>18 Q. So you promise two years of employment in your current</p> <p>19 position or --</p> <p>20 A. It doesn't state or at least I don't remember.</p> <p>21 Q. Do you down -- did you say you downloaded a form?</p> <p>22 A. Um-hum. Yes.</p> <p>23 Q. Do patients in the Wound Care Center ever need x-rays?</p> <p>24 A. Yes.</p> <p>25 Q. Can they get them on site?</p> <p>26 A. Yes.</p>

<p style="text-align: right;">Page 378</p> <p>1 Q. Where?</p> <p>2 A. Right -- we have the x-ray tech right on -- in our suite.</p> <p>3 Q. In Suite B?</p> <p>4 A. Yes.</p> <p>5 Q. Have you ever referred patients to the x-ray tech?</p> <p>6 A. Yes.</p> <p>7 Q. What does that involve?</p> <p>8 A. The doctor gives x-ray techs the order. The x-ray tech</p> <p>9 come into the office and tells me which patient demographic</p> <p>10 they need. I print it out for them and give it to the x-ray</p> <p>11 tech and that's it.</p> <p>12 Q. Do you have any interaction with the x-ray techs?</p> <p>13 A. Yes.</p> <p>14 Q. Can you describe your interactions with them?</p> <p>15 A. In what I just described, printing out the demographic</p> <p>16 with the x-ray tech. If we need reports that has not been</p> <p>17 given to us yet, I'll tell her that we need them. We sign in</p> <p>18 and out with the same computer.</p> <p>19 Q. Would you see them in the morning --</p> <p>20 A. Yes.</p> <p>21 Q. -- signing in and out?</p> <p>22 A. Yes. They use my computer.</p> <p>23 Q. Do the x-ray techs work for New York Methodist MSO-3?</p> <p>24 A. Yes.</p> <p>25 Q. How do you know?</p> <p>26 A. They have an ID and sometimes they wear the New York</p>	<p style="text-align: right;">Page 380</p> <p>1 The x-ray techs employment is not at issue in this hearing.</p> <p>2 MR. FRANK: That's why I wasn't prepared.</p> <p>3 HEARING OFFICER SCHAEFER: <small>I understand.</small></p> <p>4 BY MR. FELSTINER:</p> <p>5 Q. I'm going to show you a document.</p> <p>6 HEARING OFFICER SCHAEFER: <small>_____</small></p> <p>7 Union 3.</p> <p>8 (Union's Exhibit 3 identified.)</p> <p>9 BY MR. FELSTINER:</p> <p>10 Q. Ms. Lorenzo, do you recognize this document?</p> <p>11 A. Yes.</p> <p>12 Q. What is it?</p> <p>13 A. This document was given to us by Jennifer Donovan after</p> <p>14 the petition for 1199.</p> <p>15 Q. Where was this document given to you?</p> <p>16 A. In the office at One Prospect Park West.</p> <p>17 MR. FELSTINER: That's all we have for --</p> <p>18 HEARING OFFICER SCHAEFER: <small>_____</small></p> <p>19 MR. FELSTINER: Yes. I'm so sorry, I would like to</p> <p>20 offer this as Union 3.</p> <p>21 HEARING OFFICER SCHAEFER: <small>_____</small></p> <p>22 same --</p> <p>23 MR. FRANK: Same objection. You make the same ruling?</p> <p>24 HEARING OFFICER SCHAEFER: <small>_____</small></p> <p>25 was going to throw at the same caveat though that the -- that</p> <p>26 the attached documents may be redacted from the exhibit if the</p>
<p style="text-align: right;">Page 379</p> <p>1 Methodist T shirt.</p> <p>2 HEARING OFFICER SCHAEFER: <small>_____</small></p> <p>3 MR. FRANK: I don't know. I'm not sure what the</p> <p>4 question is. Just what --</p> <p>5 HEARING OFFICER SCHAEFER: <small>_____</small></p> <p>6 that the x-ray techs are not part of the petitioned for unit,</p> <p>7 I'm just asking if the x-ray techs employed -- who the</p> <p>8 Employer of the x-ray techs is, if that's a matter in dispute?</p> <p>9 Does MSO or New York Methodist have a position as to who</p> <p>10 the Employer is of the x-ray techs?</p> <p>11 MR. FRANK: I need to look into that.</p> <p>12 HEARING OFFICER SCHAEFER: <small>_____</small></p> <p>13 ahead.</p> <p>14 MR. FRANK: I believe that's in a separate -- I need to</p> <p>15 look into that because it's in a separate room.</p> <p>16 HEARING OFFICER SCHAEFER: <small>I understand.</small></p> <p>17 MR. FELSTINER: Did you say a separate room?</p> <p>18 HEARING OFFICER SCHAEFER: <small>_____</small></p> <p>19 Felstiner.</p> <p>20 MS. WILCOX: You said separate room suite where wound</p> <p>21 care, foot and ankle --</p> <p>22 MR. FRANK: I need to check on the answer to the Hearing</p> <p>23 Officer's question regarding x-ray techs. I don't want to</p> <p>24 mis-speak.</p> <p>25 HEARING OFFICER SCHAEFER: <small>That's fine.</small></p> <p>26 Just for the record, that's a question that I'm asking.</p>	<p style="text-align: right;">Page 381</p> <p>1 Employer wants them taken out.</p> <p>2 MR. FRANK: Yeah, I put them all in because there's lot</p> <p>3 of them.</p> <p>4 HEARING OFFICER SCHAEFER: <small>_____</small></p> <p>5 just making the same --</p> <p>6 MR. FRANK: Didn't want to not put an incomplete</p> <p>7 document in.</p> <p>8 HEARING OFFICER SCHAEFER: <small>_____</small></p> <p>9 make your objection on the record.</p> <p>10 MR. FRANK: The objection is this document has nothing</p> <p>11 to do with determining whether this is a question concerning</p> <p>12 representation. Therefore, it is not relevant.</p> <p>13 HEARING OFFICER SCHAEFER: <small>_____</small></p> <p>14 insofar as the first page indicates -- the signatures at the</p> <p>15 bottom of the first page indicate -- may shed light on who the</p> <p>16 Employer of the employees is, its relevant though I am willing</p> <p>17 to remove the Pages 2, 3 and 4, but it's up to you.</p> <p>18 MR. FRANK: They should be removed then.</p> <p>19 HEARING OFFICER SCHAEFER: <small>_____</small></p> <p>20 admitting Union 3 with the attachments removed.</p> <p>21 (Union's Exhibit 3 received.)</p> <p>22 HEARING OFFICER SCHAEFER: <small>_____</small></p> <p>23 MR. FRANK: Thank you.</p> <p>24 CROSS EXAMINATION</p> <p>25 BY MR. FRANK:</p> <p>26 Q. What are your hours of work?</p>

<p style="text-align: right;">Page 382</p> <p>1 A. From 8:00 to 4:00, Monday through Friday.</p> <p>2 Q. Do you always work the same shift?</p> <p>3 A. Yes.</p> <p>4 Q. Are you ever assigned to work on Saturdays and Sundays?</p> <p>5 A. I was requested a few times, but I denied it -- but I</p> <p>6 denied it.</p> <p>7 Q. You denied. Do you ever work the evening shift?</p> <p>8 A. I might stay past my time a little bit, but not regular.</p> <p>9 Q. Do you ever work a night shift?</p> <p>10 A. No.</p> <p>11 Q. Does the office generally have hours that are daytime</p> <p>12 hours?</p> <p>13 A. I'm sorry?</p> <p>14 Q. What are the office hours, the Wound Care Center's office</p> <p>15 hours?</p> <p>16 A. From 8:00 to 4:00, Monday through Friday.</p> <p>17 Q. Would it be accurate to say that the Wound Care Office is</p> <p>18 not a 24/7 operation?</p> <p>19 A. Yes.</p> <p>20 HEARING OFFICER SCHAEFER: <small>Okay, go ahead.</small></p> <p>21 when you were asked to work on a weekend, was that -- what was</p> <p>22 that for, if you know?</p> <p>23 THE WITNESS: It was to catch up on registrations.</p> <p>24 HEARING OFFICER SCHAEFER: <small>Okay, go ahead.</small></p> <p>25 THE WITNESS: Yes.</p> <p>26 HEARING OFFICER SCHAEFER: <small>Okay, go ahead.</small></p>	<p style="text-align: right;">Page 384</p> <p>1 there's a kitchen.</p> <p>2 BY MR. FRANK:</p> <p>3 Q. In One Prospect Park West?</p> <p>4 A. Yes.</p> <p>5 Q. Now, there's an information system for recording</p> <p>6 information on the physician patients?</p> <p>7 A. Sorry?</p> <p>8 Q. That can be referred to as the Eagle System?</p> <p>9 A. Yes, to register.</p> <p>10 Q. What is the Eagle System?</p> <p>11 A. It's the system we use to register patients.</p> <p>12 Q. And when you say we, you're referring to the physicians'</p> <p>13 patients where you put patient information?</p> <p>14 A. Yes.</p> <p>15 Q. And that is a different system than the MSO-3 information</p> <p>16 system, is that correct?</p> <p>17 A. No.</p> <p>18 Q. Okay. What is the Cerner System?</p> <p>19 A. It's also used by the MSO-3, but that's where we obtain</p> <p>20 any medical progress notes from other physicians that the</p> <p>21 patient has seen at the MSO-3 or the Emergency Room notes or</p> <p>22 lab works.</p> <p>23 Q. Now, for the -- is the Eagle System the system that's</p> <p>24 used for inputting all the patient information that is</p> <p>25 obtained at One Prospect Park West?</p> <p>26 A. Repeat that again?</p>
<p style="text-align: right;">Page 383</p> <p>1 open?</p> <p>2 THE WITNESS: Yes.</p> <p>3 HEARING OFFICER SCHAEFER: <small>Okay, go ahead.</small></p> <p>4 weekend?</p> <p>5 THE WITNESS: The weekend, the night shift.</p> <p>6 HEARING OFFICER SCHAEFER: <small>Okay, go ahead.</small></p> <p>7 BY MR. FRANK:</p> <p>8 Q. Now, do you work every day at One Prospect Park West?</p> <p>9 A. Yes.</p> <p>10 Q. Do you ever work at New York Methodist MSO-3 on 6th</p> <p>11 Street?</p> <p>12 A. No.</p> <p>13 Q. When did you start working?</p> <p>14 A. In May 2014. May 2014.</p> <p>15 Q. And am I correct that for the entire time period from May</p> <p>16 of 2014 to the present time you've never been assigned to work</p> <p>17 in New York Methodist MSO-3, is that correct?</p> <p>18 A. Correct.</p> <p>19 Q. Do you wear a uniform?</p> <p>20 A. No.</p> <p>21 Q. Where do you eat lunch?</p> <p>22 A. Where do I eat lunch, you said?</p> <p>23 Q. Yes, where?</p> <p>24 HEARING OFFICER SCHAEFER: <small>Repeat, where are you eating?</small></p> <p>25 eating?</p> <p>26 THE WITNESS: There's like a -- in the back of the suite</p>	<p style="text-align: right;">Page 385</p> <p>1 Q. When a patient comes to One Prospect Park West and they</p> <p>2 provide you information, do you put that into the Eagle</p> <p>3 System?</p> <p>4 A. Yes, because that's the system we use to register them.</p> <p>5 Q. So any patient who comes to One Prospect Park West you</p> <p>6 put their information into the Eagle System?</p> <p>7 A. Yes, to create a medical record number. Therefore, we're</p> <p>8 registering them.</p> <p>9 HEARING OFFICER SCHAEFER: <small>Okay, go ahead.</small></p> <p>10 records in the Cerner?</p> <p>11 THE WITNESS: We still need to register the patient to</p> <p>12 bill to the insurance.</p> <p>13 HEARING OFFICER SCHAEFER: <small>Okay, go ahead.</small></p> <p>14 BY MR. FRANK:</p> <p>15 Q. And when you register the patients, you register them for</p> <p>16 their visit at One Prospect Park West?</p> <p>17 A. I'm sorry?</p> <p>18 Q. Do you register them for their visit to One Prospect Park</p> <p>19 West?</p> <p>20 A. Yes.</p> <p>21 Q. And you register them for the particular physician that</p> <p>22 they're going to see?</p> <p>23 A. Yes.</p> <p>24 Q. And are you involved in billing?</p> <p>25 A. Yes.</p> <p>26 Q. And do you submit a physician bill for the work that is</p>

<p style="text-align: right;">Page 386</p> <p>1 performed at One Prospect Park West?</p> <p>2 A. The billing works a little different so I'll register</p> <p>3 them on the Eagle System and somebody from the MSO-3 will</p> <p>4 finalize the bill.</p> <p>5 Q. Okay, but do you have any involvement in billing?</p> <p>6 A. In a sense yes, in a sense no because I start --</p> <p>7 Q. Do you prepare bills?</p> <p>8 A. No.</p> <p>9 HEARING OFFICER SCHAEFER: _____</p> <p>10 mean by in a sense yes and in a sense no?</p> <p>11 THE WITNESS: In a sense I start off the bill, like I'll</p> <p>12 put the -- so once the patient is registered we'll put the</p> <p>13 codes where the coder in the MSO-3 or to send it to the</p> <p>14 insurance.</p> <p>15 HEARING OFFICER SCHAEFER: Okay.</p> <p>16 THE WITNESS: And then -- but I don't physically send</p> <p>17 them out to the insurance company so it can be billed.</p> <p>18 HEARING OFFICER SCHAEFER: _____</p> <p>19 in transmitting the information from a billing to -- what</p> <p>20 happens -- so once you put the information and the codes into</p> <p>21 Equal, right, do you know what happens to it or how it gets to</p> <p>22 the insurance company?</p> <p>23 THE WITNESS: No.</p> <p>24 HEARING OFFICER SCHAEFER: _____</p> <p>25 process where you like click submit on the Eagle thing --</p> <p>26 THE WITNESS: No.</p>	<p style="text-align: right;">Page 388</p> <p>1 System?</p> <p>2 A. The insurance company that it's going to be sent out to.</p> <p>3 Q. The name of the insurance company?</p> <p>4 A. Yes.</p> <p>5 Q. Anything else?</p> <p>6 A. The address.</p> <p>7 Q. Yes, anything else?</p> <p>8 A. Patient information that's going to be -- the patient</p> <p>9 information.</p> <p>10 Q. Okay. Now, --</p> <p>11 HEARING OFFICER SCHAEFER: _____</p> <p>12 Eagle or does that go somewhere else?</p> <p>13 THE WITNESS: It goes in Eagle also.</p> <p>14 HEARING OFFICER SCHAEFER: _____</p> <p>15 that are performed go in Eagle?</p> <p>16 THE WITNESS: Yes.</p> <p>17 HEARING OFFICER SCHAEFER: Okay.</p> <p>18 BY MR. FRANK:</p> <p>19 Q. And are the codes descriptions of what physician work is</p> <p>20 performed?</p> <p>21 A. Their diagnosis code.</p> <p>22 Q. And who does the diagnosis?</p> <p>23 A. The doctor determines what code they want to use.</p> <p>24 Q. Do the physician assistants also make diagnoses?</p> <p>25 A. We don't have physician assistant.</p> <p>26 Q. Do you have any registered nurses?</p>
<p style="text-align: right;">Page 387</p> <p>1 HEARING OFFICER SCHAEFER: _____</p> <p>2 You just put in the codes and then somebody else --</p> <p>3 THE WITNESS: Yes.</p> <p>4 HEARING OFFICER SCHAEFER: _____</p> <p>5 THE WITNESS: Yes.</p> <p>6 HEARING OFFICER SCHAEFER: _____</p> <p>7 that?</p> <p>8 THE WITNESS: I'm not sure about her name.</p> <p>9 HEARING OFFICER SCHAEFER: _____</p> <p>10 her name?</p> <p>11 THE WITNESS: Yes.</p> <p>12 HEARING OFFICER SCHAEFER: _____</p> <p>13 communicate with?</p> <p>14 THE WITNESS: I have not personally communicated with</p> <p>15 her, but I heard my coworker has communicated with her.</p> <p>16 HEARING OFFICER SCHAEFER: Okay.</p> <p>17 MR. FRANK: Objection.</p> <p>18 HEARING OFFICER SCHAEFER: _____</p> <p>19 get the answer to that question or to determine whether it was</p> <p>20 secondary -- second hand.</p> <p>21 MR. FRANK: Yeah, but if I may?</p> <p>22 BY MR. FRANK:</p> <p>23 Q. Am I correct the Eagle System has nothing to do with</p> <p>24 billing?</p> <p>25 A. It does, it does.</p> <p>26 Q. Okay. What billing information do you put into the Eagle</p>	<p style="text-align: right;">Page 389</p> <p>1 A. Do they --</p> <p>2 Q. Any registered nurses work at the Wound Care Center?</p> <p>3 A. Yes.</p> <p>4 Q. Okay. How many registered nurses work at the Wound Care</p> <p>5 Center?</p> <p>6 A. Including Karen, it's two.</p> <p>7 Q. And Karen Chan is the office manager?</p> <p>8 A. She's the Director -- well, yeah, she's the office</p> <p>9 manager, yes.</p> <p>10 Q. And she's also an RN?</p> <p>11 A. Yes.</p> <p>12 Q. If -- have you ever been absent from work?</p> <p>13 A. Yes.</p> <p>14 Q. Who do you call in to report your absence to?</p> <p>15 A. Karen.</p> <p>16 Q. Have you taken a vacation?</p> <p>17 A. Yes.</p> <p>18 Q. Who do you get your vacation schedule from?</p> <p>19 A. I submit it through Karen.</p> <p>20 Q. And is that true for all the employees?</p> <p>21 A. Yes.</p> <p>22 Q. Do you know Joanne Kennedy?</p> <p>23 A. Do I know her?</p> <p>24 Q. Yes.</p> <p>25 A. Yes.</p> <p>26 Q. And what is her position?</p>

<p style="text-align: right;">Page 390</p> <p>1 A. I'm not sure.</p> <p>2 Q. Ever see her at the office?</p> <p>3 A. I seen her a few times at the office.</p> <p>4 Q. At One Prospect Park West?</p> <p>5 A. Yes.</p> <p>6 Q. And is she Karen Chan's superior?</p> <p>7 A. Yes.</p> <p>8 Q. And does Karen Chan meet with Joanne Kennedy regularly?</p> <p>9 HEARING OFFICER SCHAEFER: <small>If you know.</small></p> <p>10 BY MR. FRANK:</p> <p>11 Q. If you know?</p> <p>12 A. Well, when she mentioned that she's going to meet with</p> <p>13 her.</p> <p>14 Q. And how often does she say she's going to meet with</p> <p>15 Joanne Kennedy?</p> <p>16 A. I don't know off the top of my -- I'm not really -- I'm</p> <p>17 not sure.</p> <p>18 Q. Now, are there other receptionists at One Prospect Park</p> <p>19 West in suite B?</p> <p>20 A. Yes.</p> <p>21 Q. Who else is in it?</p> <p>22 A. Rodriguez, Demarys.</p> <p>23 Q. Rodriguez Denaris?</p> <p>24 A. Yes, Demarys is a first name. Myself, and Liz, Elizabeth</p> <p>25 and right now we have a temp.</p> <p>26 Q. What's Elizabeth's last name?</p>	<p style="text-align: right;">Page 392</p> <p>1 HEARING OFFICER SCHAEFER: <small>Oh, that's all right.</small></p> <p>2 Okay, sorry.</p> <p>3 MR. FRANK: The reason she's not on the list is she's</p> <p>4 not a wound care employee.</p> <p>5 HEARING OFFICER SCHAEFER: <small>Okay, fine.</small></p> <p>6 MR. FELSTINER: Sorry, object to the testimony from</p> <p>7 counsel during cross examination.</p> <p>8 HEARING OFFICER SCHAEFER: Okay.</p> <p>9 MR. FELSTINER: He can ask questions.</p> <p>10 HEARING OFFICER SCHAEFER: <small>That's all right.</small></p> <p>11 out --</p> <p>12 MR. FRANK: I was responding to the Hearing Officer's</p> <p>13 question.</p> <p>14 HEARING OFFICER SCHAEFER: <small>That's all right.</small></p> <p>15 looking for a last name for the individual and I didn't</p> <p>16 realize that someone had answered that question. So you</p> <p>17 started asking questions on Ms. Fonte and I didn't know what</p> <p>18 was going on.</p> <p>19 MR. FRANK: And she was not on the list of employees in</p> <p>20 the bargaining unit that was submitted at the beginning.</p> <p>21 HEARING OFFICER SCHAEFER: Okay.</p> <p>22 MR. FRANK: And the reason for that is she's not --</p> <p>23 HEARING OFFICER SCHAEFER: <small>That's all right.</small></p> <p>24 position.</p> <p>25 MR. FRANK: From the MSO's point -- from the Employer's</p> <p>26 point of view, she is not in the wound care unit.</p>
<p style="text-align: right;">Page 391</p> <p>1 A. Fonte.</p> <p>2 Q. I'm sorry?</p> <p>3 A. I want to make sure. Fonte, I think it is. I'm not</p> <p>4 sure.</p> <p>5 HEARING OFFICER SCHAEFER: <small>That's all right.</small></p> <p>6 have it here.</p> <p>7 (Whereupon, Hearing Officer Schaefer reviewed a document.)</p> <p>8 HEARING OFFICER SCHAEFER: <small>That's all right.</small></p> <p>9 I don't. Does somebody have the list? Do you have the list?</p> <p>10 Can we help her out with the last name?</p> <p>11 MR. FRANK: The employees --</p> <p>12 HEARING OFFICER SCHAEFER: <small>That's all right.</small></p> <p>13 it as Liz, the last name unknown.</p> <p>14 BY MR. FRANK:</p> <p>15 Q. Does Ms. Fonte work for the foot clinic?</p> <p>16 A. Yes, but she also helps out the wound care.</p> <p>17 Q. But Ms. Fonte doesn't work for wound care every day, does</p> <p>18 she?</p> <p>19 A. She helps us out every day, yes.</p> <p>20 Q. Oh. How does she help you out?</p> <p>21 A. If we're -- me and Demarys are busy she'll answer the</p> <p>22 phone for us. If a patient comes in she'll greet the patient,</p> <p>23 she'll make an appointment for us if we're not available.</p> <p>24 HEARING OFFICER SCHAEFER: <small>That's all right.</small></p> <p>25 missed something. Who's Ms. Fonte?</p> <p>26 THE WITNESS: That's Elizabeth.</p>	<p style="text-align: right;">Page 393</p> <p>1 HEARING OFFICER SCHAEFER: <small>That's all right.</small></p> <p>2 BY MR. FRANK:</p> <p>3 Q. And what is the name of the temporary employee?</p> <p>4 A. Lindsey. She's only been there a week maybe or two weeks</p> <p>5 maybe, max.</p> <p>6 Q. Now, who is John Papendick?</p> <p>7 A. He's the hyperbaric tech.</p> <p>8 Q. What does he do?</p> <p>9 A. He runs the chambers.</p> <p>10 Q. And what is the chamber?</p> <p>11 A. What is it?</p> <p>12 Q. Yes.</p> <p>13 A. Yeah, there are the hyperbaric chambers.</p> <p>14 Q. And what is the hyperbaric chamber?</p> <p>15 HEARING OFFICER SCHAEFER: <small>If you know.</small></p> <p>16 THE WITNESS: It helps with the wound healing and</p> <p>17 basically it provides oxygen for the wounds to heal.</p> <p>18 BY MR. FRANK:</p> <p>19 Q. And is his job title hyperbaric technologist?</p> <p>20 A. Yes.</p> <p>21 Q. And is Ruth Peart-Johnson the registered nurse?</p> <p>22 A. Yes.</p> <p>23 Q. And who is Jasmin Tower?</p> <p>24 A. She's an LPN. She's one of the nurses.</p> <p>25 Q. Do you know what her duties are by any chance?</p> <p>26 A. She's the LPN. She does clinical work with the patient.</p>

<p style="text-align: right;">Page 394</p> <p>1 Q. And who is Jeanette Martinez?</p> <p>2 A. She's also one of the nurses.</p> <p>3 Q. Nurse?</p> <p>4 A. Yeah, she's an LPN.</p> <p>5 Q. And what does she do?</p> <p>6 A. She also do clinical work.</p> <p>7 Q. Does your ID badge have a yellow back on it near your</p> <p>8 picture?</p> <p>9 A. Yes.</p> <p>10 Q. Does the delivery person from the MSO-3 have an ID card?</p> <p>11 A. Yes.</p> <p>12 Q. Does his card have a blue background?</p> <p>13 A. Yes.</p> <p>14 Q. And is a blue background on all of the MSO-3 ID cards?</p> <p>15 A. I'm not sure.</p> <p>16 Q. But you see blue ID cards?</p> <p>17 A. Yes.</p> <p>18 HEARING OFFICER SCHAEFER: blue?</p> <p>19</p> <p>20 THE WITNESS: Yes.</p> <p>21 HEARING OFFICER SCHAEFER: Okay.</p> <p>22 BY MR. FRANK:</p> <p>23 Q. Is it a fact that all of the MSO-3 employees have blue ID</p> <p>24 cards that you see?</p> <p>25 A. I'm sorry?</p> <p>26 Q. When you see MSO-3 employees do they have blue</p>	<p style="text-align: right;">Page 396</p> <p>1 (Whereupon, Mr. Frank handed the document</p> <p>2 to the Hearing Officer.)</p> <p>3 HEARING OFFICER SCHAEFER: Thank you.</p> <p>4 BY MR. FRANK:</p> <p>5 A. Can you please identify MSO-3, please?</p> <p>6 A. This one?</p> <p>7 Q. Yes, yes. Is this the employment -- let me phrase it.</p> <p>8 Is this the employment application you filed when you were</p> <p>9 seeking employment?</p> <p>10 A. I apply on line. I didn't see the paper copy. I don't</p> <p>11 remember it looking, the top portion of it like this.</p> <p>12 HEARING OFFICER SCHAEFER:</p> <p>13 you filled it out on line? Was it like a form, like a form</p> <p>14 and you put in information, or do you recall?</p> <p>15 THE WITNESS: It was like a form and you just kept</p> <p>16 pressing -- you just kept hitting next. I did fill it out.</p> <p>17 HEARING OFFICER SCHAEFER: Okay.</p> <p>18 BY MR. FRANK:</p> <p>19 Q. Would you look through the form and my question is, is</p> <p>20 this the information that you provided to MSO Kings County</p> <p>21 when you were seeking employment?</p> <p>22 A. Yes.</p> <p>23 Q. And does this accurately reflect the information that you</p> <p>24 provided in the application form?</p> <p>25 A. Yes.</p> <p>26 Q. Now, --</p>
<p style="text-align: right;">Page 395</p> <p>1 backgrounds on their ID cards?</p> <p>2 A. Yes.</p> <p>3 MR. FRANK: What is my next Employer exhibit number?</p> <p>4 HEARING OFFICER SCHAEFER:</p> <p>5 MR. FRANK: 3?</p> <p>6 HEARING OFFICER SCHAEFER:</p> <p>7 3 because there's two separate parties. So this is MSO-3.</p> <p>8 (MSO's Exhibit 3 identified.)</p> <p>9 HEARING OFFICER SCHAEFER:</p> <p>10 representing two separate Employers so some -- most of the</p> <p>11 documents coming in is MSO-3. There's also a New York</p> <p>12 Methodist and their exhibits we're marking NYM whatever the</p> <p>13 number is, just so you know.</p> <p>14 MR. FRANK: And mark this as MSO-3.</p> <p>15 HEARING OFFICER SCHAEFER: B as in boy?</p> <p>16 MR. FRANK: 3, MSO-3.</p> <p>17 HEARING OFFICER SCHAEFER: 3, oh, sorry.</p> <p>18 MS. WILCOX: What document are you having marked as MSO-</p> <p>19 3?</p> <p>20 MR. FRANK: Application for employment from the</p> <p>21 documents we provided to you.</p> <p>22 HEARING OFFICER SCHAEFER:</p> <p>23 different pages. So it's the application for employment.</p> <p>24 (Whereupon, Mr. Frank showed the document to Mr. Felstiner.)</p> <p>25 MR. FRANK: Would you like a copy?</p> <p>26 HEARING OFFICER SCHAEFER: I would.</p>	<p style="text-align: right;">Page 397</p> <p>1 HEARING OFFICER SCHAEFER: Can we proceed to</p> <p>2 handwriting?</p> <p>3 MR. FRANK: What?</p> <p>4 HEARING OFFICER SCHAEFER:</p> <p>5 MR. FRANK: I will get to it.</p> <p>6 BY MR. FRANK:</p> <p>7 Q. Now, we redacted some information, but when you completed</p> <p>8 some information did you fill out all of the information with</p> <p>9 your personal address as well?</p> <p>10 A. Yes.</p> <p>11 Q. Now, on Page 3 of 8 there is some handwritten</p> <p>12 information. Did you write that information or did someone</p> <p>13 else write that?</p> <p>14 A. Someone else.</p> <p>15 Q. So the information you provided is the typed informa --</p> <p>16 the printed information?</p> <p>17 A. That's correct.</p> <p>18 Q. And previously had you worked for St. Josephs College?</p> <p>19 A. Yes.</p> <p>20 Q. And prior to that had you worked for Woodside Health</p> <p>21 Care?</p> <p>22 A. Yes.</p> <p>23 Q. And was your most recent employment prior to applying to</p> <p>24 MSO at Kings County at Kings County MSO-3 as indicated on Page</p> <p>25 5?</p> <p>26 A. No, it's not.</p>

<p style="text-align: right;">Page 398</p> <p>1 Q. Let me rephrase it. Did you work at Kings County MSO-3 2 from 2005 to 2012?</p> <p>3 A. Yes.</p> <p>4 Q. And on Page 7 of 8 did you answer all of the questions in 5 the negative except for the one as indicated on that page, the 6 yes being that you were legally authorized for employment?</p> <p>7 A. Yes.</p> <p>8 Q. Okay. And did you apply your signature on April 17th to 9 the document in the three indicated places?</p> <p>10 A. Yes.</p> <p>11 Q. Four indicated places?</p> <p>12 A. Yes.</p> <p>13 MR. FRANK: I offer MSO-3.</p> <p>14 MS. WILCOX: I would like a complete document. I see 15 that there are things that are cut off from this document, so 16 we'd ask the MSO to provide a document that is a complete 17 document.</p> <p>18 MR. FRANK: We'll do a better copy.</p> <p>19 MS. WILCOX: Okay.</p> <p>20 MR. FRANK: Other than the redacted material.</p> <p>21 MS. WILCOX: Other than that -- other than that we have 22 no objection.</p> <p>23 MR. FRANK: Am I correct that that does not include the 24 redacted material?</p> <p>25 HEARING OFFICER SCHAEFER: <small>Is that what you're</small> 26 referencing, Ms. Wilcox?</p>	<p style="text-align: right;">Page 400</p> <p>1 (Whereupon, Mr. Frank handed the Hearing Officer a document.)</p> <p>2 HEARING OFFICER SCHAEFER: <small>Thanks.</small></p> <p>3 BY MR. FRANK:</p> <p>4 Q. On the bottom of MSO-4 whose signature is that?</p> <p>5 A. That's mine.</p> <p>6 Q. That's your signature?</p> <p>7 A. Yes.</p> <p>8 Q. And did you know that you were going to be working for 9 MSO of Kings County?</p> <p>10 MR. FELSTINER: Objection. That's ultimately the 11 question here.</p> <p>12 MR. FRANK: No, it isn't. The question is what she 13 believed at that time.</p> <p>14 HEARING OFFICER SCHAEFER: _____</p> <p>15 way. The belief of the witness is not necessarily responsive 16 to the inquiry, but I think you can ask it a different way, if 17 anyone ever told her that she was working for MSO.</p> <p>18 BY MR. FRANK:</p> <p>19 Q. Were you offered a full-time position of office assistant 20 at MSO of Kings County effective May 24th and did you accept 21 that offer of employment?</p> <p>22 HEARING OFFICER SCHAEFER: <small>May 27th.</small></p> <p>23 BY MR. FRANK:</p> <p>24 Q. May 27th, I'm sorry, I apologize.</p> <p>25 A. When I was hired they just told me MSO is for non-Union. 26 They never stated that that's a different -- that's not part</p>
<p style="text-align: right;">Page 399</p> <p>1 MS. WILCOX: No, no, I'm not talking about the redacted. 2 The pages seem to be cut off. I don't know what's at the 3 bottom of the pages so we would like to have one that's 4 completely --</p> <p>5 MR. FRANK: Fair enough.</p> <p>6 MS. WILCOX: The Petitioner has no objection to the 7 redacted -- what's been redacted, which appears to be 8 addresses.</p> <p>9 MR. FRANK: We will make a better copy.</p> <p>10 HEARING OFFICER SCHAEFER: <small>Okay. Thank you. Is he</small> 11 meantime, I'm admitting MSO-3 though with the understanding 12 that a better copy is produced. We may replace it with a 13 better copy.</p> <p>14 (MSO's Exhibit 3 received.)</p> <p>15 MR. FRANK: I will try and do better.</p> <p>16 May I have this marked as MSO-4 letter dated May 8th, 17 2014?</p> <p>18 (MSO Exhibit 4 identified.)</p> <p>19 BY MR. FRANK:</p> <p>20 Q. I'm showing you what's been marked as MSO-4. It's a 21 letter dated May 8th, 2014. Did you receive this letter on 22 about that date?</p> <p>23 A. Yes.</p> <p>24 MR. FRANK: Would the Hearing Officer like an extra 25 copy? I have extra copies if you would like one.</p> <p>26 HEARING OFFICER SCHAEFER: Yes.</p>	<p style="text-align: right;">Page 401</p> <p>1 of the MSO-3.</p> <p>2 Q. Well, did you -- you received this letter.</p> <p>3 A. Correct.</p> <p>4 Q. Did you read it?</p> <p>5 A. Yes.</p> <p>6 Q. Okay. And at the time you accepted this offer was it 7 made clear to you that you were going to be an office 8 assistant at MSO of Kings County?</p> <p>9 HEARING OFFICER SCHAEFER: <small>That's what she said.</small></p> <p>10 you're asking was it made clear to you, I mean the letter 11 speaks for itself. The witness has testified she signed it.</p> <p>12 BY MR. FRANK:</p> <p>13 Q. Did you understand the letter?</p> <p>14 A. Yes.</p> <p>15 Q. And where did you understand you would be working?</p> <p>16 A. At One Prospect Park West.</p> <p>17 MR. FRANK: I offer MSO-4.</p> <p>18 HEARING OFFICER SCHAEFER: <small>Any objection?</small></p> <p>19 MR. FELSTINER: No.</p> <p>20 HEARING OFFICER SCHAEFER: _____</p> <p>21 evidence.</p> <p>22 (MSO Exhibit 4 received.)</p> <p>23 MR. FRANK: Can I have this marked as MSO-5, please, 24 document bearing the date of May 15th, 2014?</p> <p>25 (MSO Exhibit 5 identified.)</p> <p>26 MR. FELSTINER: Which one is that? Sorry.</p>

<p style="text-align: right;">Page 402</p> <p>1 MR. FRANK: I'm sorry.</p> <p>2 HEARING OFFICER SCHAEFER: _____</p> <p>3 pay rate.</p> <p>4 MR. FRANK: Acknowledgment of pay rate.</p> <p>5 MR. FELSTINER: Okay.</p> <p>6 BY MR. FRANK:</p> <p>7 Q. Can you please identify the document that's been marked</p> <p>8 as MSO-5?</p> <p>9 A. This was the paper I signed notifying me of my -- how</p> <p>10 much I would be getting paid.</p> <p>11 Q. And who did it notify you as to who your Employer would</p> <p>12 be?</p> <p>13 A. I'm sorry, repeat the question?</p> <p>14 Q. Did the document notify you as to who your Employer was?</p> <p>15 MR. FELSTINER: It speaks for itself.</p> <p>16 HEARING OFFICER SCHAEFER: _____</p> <p>17 filled out the document, was it filled out before -- I mean --</p> <p>18 BY MR. FRANK:</p> <p>19 Q. Okay. Was the document filled out when you signed it?</p> <p>20 A. Yes.</p> <p>21 Q. And did it say Employer information, MSO of Kings County</p> <p>22 LLC before you signed it?</p> <p>23 A. Yes.</p> <p>24 Q. And you saw that when you signed it?</p> <p>25 A. Yes.</p> <p>26 MR. FRANK: I offer it.</p>	<p style="text-align: right;">Page 404</p> <p>1 MR. FRANK: I offer it. So we've deleted the date of</p> <p>2 birth and, you know, Social Security number and all that</p> <p>3 information.</p> <p>4 HEARING OFFICER SCHAEFER: Sure.</p> <p>5 MR. FELSTINER: Oh, I have a question about it.</p> <p>6 HEARING OFFICER SCHAEFER: <small>You can ask it.</small></p> <p>7 VOIR DIRE EXAMINATION</p> <p>8 BY MR. FELSTINER:</p> <p>9 Q. Did you fill out this form?</p> <p>10 A. No.</p> <p>11 HEARING OFFICER SCHAEFER: <small>Okay. So --</small></p> <p>12 BY MR. FELSTINER:</p> <p>13 Q. Did you create this form some way?</p> <p>14 A. I don't remember this form.</p> <p>15 MR. FELSTINER: We don't have any basis for it to</p> <p>16 believe -- I mean it hasn't been authenticated by anybody.</p> <p>17 We're not stipulating to its authenticity and she hasn't</p> <p>18 testified that it is. She testified to the information, but</p> <p>19 not the document itself.</p> <p>20 HEARING OFFICER SCHAEFER: _____</p> <p>21 in through another witness.</p> <p>22 MR. FELSTINER: Sure.</p> <p>23 BY MR. FRANK:</p> <p>24 Q. Is it your testimony that you did not fill out this form</p> <p>25 when you started employment at MSO at Kings County?</p> <p>26 A. I'm stating that I don't remember filling this form out.</p>
<p style="text-align: right;">Page 403</p> <p>1 HEARING OFFICER SCHAEFER: <small>Any objection?</small></p> <p>2 MS. WILCOX: No, no, no objection.</p> <p>3 HEARING OFFICER SCHAEFER: <small>Yes, I do.</small></p> <p>4 evidence.</p> <p>5 (MSO Exhibit 5 received.)</p> <p>6 MR. FRANK: May I have this marked as MSO-6?</p> <p>7 (MSO Exhibit 6 identified.)</p> <p>8 HEARING OFFICER SCHAEFER: <small>Yes, I do.</small></p> <p>9 the top says new hire date on it.</p> <p>10 MR. FELSTINER: Okay. I'm sorry, I just need to know</p> <p>11 which one it is.</p> <p>12 BY MR. FRANK:</p> <p>13 Q. Can you please identify MSO-6? Again, I'll say for the</p> <p>14 record, we've redacted your address and other identifying</p> <p>15 information from the document.</p> <p>16 A. I don't remember this document.</p> <p>17 Q. Did you provide emergency contact information to MSO of</p> <p>18 Kings County?</p> <p>19 A. When I fill out a job application, yes.</p> <p>20 Q. And was that person your mother?</p> <p>21 A. Yes.</p> <p>22 Q. And did you identify yourself as Hispanic or Latino?</p> <p>23 A. Yes.</p> <p>24 Q. And did you provide all of the information that's on this</p> <p>25 document?</p> <p>26 A. Yes.</p>	<p style="text-align: right;">Page 405</p> <p>1 HEARING OFFICER SCHAEFER: <small>Just to be clear, I</small></p> <p>2 understand that the Employer's personnel records may appear</p> <p>3 differently once in a report and you can put it in through</p> <p>4 another witness, you know.</p> <p>5 MR. FRANK: I understand. Let me ask one more.</p> <p>6 BY MR. FRANK:</p> <p>7 Q. Is all of the information that is on this form accurate</p> <p>8 for you?</p> <p>9 A. Yes.</p> <p>10 MR. FRANK: I re-offer MSO-6 and I would, if there's a</p> <p>11 real issue about this, would suggest that maybe we should</p> <p>12 produce the unredacted document to further identify that this</p> <p>13 was --</p> <p>14 HEARING OFFICER SCHAEFER: _____</p> <p>15 don't think the issue is the redactions. I think the issue is</p> <p>16 just whether the witness is the person who filled out the</p> <p>17 documents. Now, I would advise both parties that this is not</p> <p>18 an adversarial hearing and the rules of evidence while applied</p> <p>19 are a little bit -- there is an opportunity -- we can put this</p> <p>20 in through another witness, but the parties could also just</p> <p>21 stipulate that this is information contained in the person's</p> <p>22 personnel record, which if the Union doesn't want -- is the</p> <p>23 Union objecting to the admission of this document?</p> <p>24 MS. WILCOX: Yes, because we don't know whether this was</p> <p>25 a document that was created by MSO or was created and filled</p> <p>26 out by Ms. Lorenzo so --</p>

Page 406	Page 408
<p>1 HEARING OFFICER SCHAEFER: <small>What is it?</small></p> <p>2 didn't --</p> <p>3 MS. WILCOX: She's testified to filling</p> <p>4 HEARING OFFICER SCHAEFER: <small>What is it?</small></p> <p>5 MS. WILCOX: So she's testified, right, right.</p> <p>6 HEARING OFFICER SCHAEFER: <small>What is it?</small></p> <p>7 she's given all this information to the Employer when she</p> <p>8 applied for the job.</p> <p>9 MS. WILCOX: Right. We just don't know whether she</p> <p>10 filled out the form so the document -- I mean we don't have</p> <p>11 any objection to that information being relevant, if it's</p> <p>12 somehow relevant here, but in terms of the actual process in</p> <p>13 terms of filling out the form we think that we could leave it.</p> <p>14 HEARING OFFICER SCHAEFER: <small>What is it?</small></p> <p>15 reserve on MSO-6 until the person who maintains the records,</p> <p>16 we can -- you know, it's a simple enough solution to resolve</p> <p>17 it.</p> <p>18 MR. FRANK: No problem.</p> <p>19 I'd like to have this marked as MSO-7.</p> <p>20 (MSO Exhibit 7 identified.)</p> <p>21 BY MR. FRANK:</p> <p>22 Q. Can you identify MSO-7?</p> <p>23 A. Yes.</p> <p>24 HEARING OFFICER SCHAEFER: <small>What is it?</small></p> <p>25 THE WITNESS: It's a form that I fill out to have my --</p> <p>26 authorize for release of information.</p>	<p>1 objection?</p> <p>2 MR. FRANK: And on its face this is a release for</p> <p>3 information.</p> <p>4 HEARING OFFICER SCHAEFER: <small>What is it?</small></p> <p>5 any object -- I just wanted to get some more background. Is</p> <p>6 there any objection?</p> <p>7 MR. FELSTINER: No, no objection.</p> <p>8 HEARING OFFICER SCHAEFER: <small>What is it?</small></p> <p>9 MR. FRANK: Wait, wait. Again, Social Security number,</p> <p>10 birth date and other identifying information has been</p> <p>11 redacted.</p> <p>12 HEARING OFFICER SCHAEFER: <small>That's fine.</small></p> <p>13 (MSO Exhibit 7 received.)</p> <p>14 MR. FRANK: Can I have this marked as MSO-8, W-4?</p> <p>15 (MSO Exhibit 8 identified.)</p> <p>16 MR. FELSTINER: W-4?</p> <p>17 MR. FRANK: W-4.</p> <p>18 MR. FRANK: Okay.</p> <p>19 BY MR. FRANK:</p> <p>20 Q. Did you fill out a W-4 withholding certificate for</p> <p>21 Federal withholding?</p> <p>22 A. Yes.</p> <p>23 Q. And does this document bear your signature?</p> <p>24 A. That is my signature.</p> <p>25 MR. FRANK: I offer MSO-8.</p> <p>26 HEARING OFFICER SCHAEFER: <small>What is it?</small></p>
Page 407	Page 409
<p>1 BY MR. FRANK:</p> <p>2 Q. And who did you author -- would you read the first line</p> <p>3 for me?</p> <p>4 A. Which line, in consent --</p> <p>5 Q. The line on top of the page.</p> <p>6 A. "In consent with my application for employment with MSO</p> <p>7 of Kings County, I authorize..." -- that line?</p> <p>8 Q. Yes.</p> <p>9 HEARING OFFICER SCHAEFER: <small>What is it?</small></p> <p>10 itself.</p> <p>11 BY MR. FRANK:</p> <p>12 Q. And you signed that?</p> <p>13 A. Yes.</p> <p>14 MR. FRANK: I'd offer it.</p> <p>15 HEARING OFFICER SCHAEFER: <small>What is it?</small></p> <p>16 MR. FRANK: I believe the document refers to it as a</p> <p>17 consumer reporting agency, if you look in the middle of the</p> <p>18 text page.</p> <p>19 HEARING OFFICER SCHAEFER: <small>What is it?</small></p> <p>20 document?</p> <p>21 THE WITNESS: May 15th.</p> <p>22 HEARING OFFICER SCHAEFER: <small>What is it?</small></p> <p>23 you were filling it out?</p> <p>24 THE WITNESS: To have access to my degree, my college</p> <p>25 degree.</p> <p>26 HEARING OFFICER SCHAEFER: <small>What is it?</small></p>	<p>1 was there when you signed this document?</p> <p>2 THE WITNESS: No.</p> <p>3 MR. FELSTINER: Maybe voir dire.</p> <p>4 VOIR DIRE EXAMINATION</p> <p>5 BY MR. FELSTINER:</p> <p>6 Q. And you filled this out in person?</p> <p>7 A. On line.</p> <p>8 Q. On line? How was it submitted?</p> <p>9 A. You press submit and then it prints out.</p> <p>10 Q. And then you signed it?</p> <p>11 A. Then I signed it.</p> <p>12 Q. And how did you submit -- how did you deliver it or send</p> <p>13 it?</p> <p>14 A. So in the Human Resource there was a computer and she</p> <p>15 allowed me to use the computer there because I wasn't able to</p> <p>16 access it in my home computer, so I filled it out and then I</p> <p>17 pressed print and I signed it.</p> <p>18 Q. Was the stamp at the bottom on there when you signed it?</p> <p>19 A. No, no.</p> <p>20 HEARING OFFICER SCHAEFER: <small>What is it?</small></p> <p>21 you were finished filling it out?</p> <p>22 THE WITNESS: No.</p> <p>23 HEARING OFFICER SCHAEFER: <small>What is it?</small></p> <p>24 MR. FELSTINER: No objection.</p> <p>25 MS. WILCOX: No objection.</p> <p>26 HEARING OFFICER SCHAEFER: <small>What is it?</small></p>

Page 410	Page 412
<p>1 (MSO Exhibit 8 received.) 2 MR. FRANK: MSO-9. 3 (MSO Exhibit 9 identified.) 4 HEARING OFFICER SCHAEFER: <small>He continues.</small> 5 the redactions on this document is a Federal ID which we 6 hadn't been redacting and which also had been used. 7 MR. FRANK: It probably shouldn't have been in. 8 HEARING OFFICER SCHAEFER: <small>He looks at the</small> 9 problem is that there was a line of questioning about the Fed 10 ID being different on some documents, so that's why I didn't 11 bring it up before. 12 MR. FRANK: No, it came in through the first set of W- 13 4's that the Union attached. 14 HEARING OFFICER SCHAEFER: <small>Correct.</small> 15 MR. FRANK: A multi-paged document. 16 HEARING OFFICER SCHAEFER: <small>He looks at the</small> 17 be aware that to the extent that it's redacted here, it wasn't 18 redacted in other documents. We can have a conversation off 19 the record about that, but it was -- like questions were asked 20 about it. 21 MR. FRANK: You are correct. It is the MSO ID number. 22 HEARING OFFICER SCHAEFER: <small>He looks at the</small> 23 MR. FRANK: We over redacted. It is the MSO ID number 24 as opposed to the MSO-3 ID number. 25 HEARING OFFICER SCHAEFER: <small>He looks at the</small> 26 make your representation -- but I understand, all right.</p>	<p>1 A. Yes. 2 Q. And is this a form you submitted to MSO of Kings County 3 when you were hired? 4 A. When I submit the application, yes. 5 MR. FRANK: I offer MSO-10. 6 HEARING OFFICER SCHAEFER: <small>Any objection?</small> 7 MR. FELSTINER: Yeah. Well, it doesn't seem to be 8 complete. It's just Page 7 of 9, it's not the entire I-9 9 form. It doesn't include, for example, the Employer 10 information that is completed on the following page. 11 HEARING OFFICER SCHAEFER: <small>Oh, is there a --</small> 12 MR. FELSTINER: I'm looking at the bottom. It says 13 Employer completes next page. I happen to personally be 14 familiar with I-9 forms, they're not one page. 15 HEARING OFFICER SCHAEFER: <small>He looks at the</small> 16 page? 17 MR. FELSTINER: There should be at least one other, but 18 I assume there's eight others. 19 HEARING OFFICER SCHAEFER: <small>He looks at the</small> 20 remember. I think the first couple of pages are instructions. 21 MR. FELSTINER: Yes, I believe -- it may be that the 22 first six pages are instructions and those don't need to be in 23 the record necessarily, but -- 24 MR. FRANK: Let's go off the record. I'll look. 25 HEARING OFFICER SCHAEFER: <small>He looks at the</small> 26 second.</p>
Page 411	Page 413
<p>1 All right. This is marked as MSO-9. 2 BY MR. FRANK: 3 Q. Did you fill out this withholding form for New York State 4 withholding? 5 A. Yes. 6 Q. Is that your signature? 7 A. Yes. 8 Q. And you filled this out on or about the 15th of May, 2014 9 for your employment starting on May 27th, 2014? 10 A. Yes. 11 Q. Was this also filled out electronically? 12 A. The top portion. 13 Q. And was the stamp of MSO of Kings County added after you 14 signed the document? 15 A. I never saw the stamp. 16 Q. You never saw it. 17 MR. FRANK: I move MSO-9. 18 HEARING OFFICER SCHAEFER: <small>Any objection?</small> 19 MR. FELSTINER: No. 20 HEARING OFFICER SCHAEFER: <small>He looks at the</small> 21 evidence. 22 (MSO Exhibit 9 received.) 23 MR. FRANK: MSO-10, employment verification. 24 (MSO Exhibit 10 identified.) 25 BY MR. FRANK: 26 Q. Is your signature on MSO-10?</p>	<p>1 (Whereupon, there was a discussion off the record.) 2 HEARING OFFICER SCHAEFER: <small>He looks at the</small> 3 So I'm going to reserve on MSO-10 until we can -- I'm 4 going to give MSO an opportunity to check and see if they can 5 find the other page, if there is another page. 6 MR. FRANK: This might be a good time to break for 7 lunch. 8 HEARING OFFICER SCHAEFER: <small>He looks at the</small> 9 wondering if you had any more questions for this witness. 10 MR. FRANK: I do have some more questions, yes. 11 HEARING OFFICER SCHAEFER: <small>He looks at the</small> 12 before lunch or -- 13 MR. FRANK: I think it's -- no, given that it's 1:15, I 14 need some time to go into -- check into a couple of matters 15 that were raised that were not initially in the petition. 16 HEARING OFFICER SCHAEFER: <small>He looks at the</small> 17 for lunch and we'll come back at 2:00 o'clock. 18 I am -- I do want to say on the record though that the 19 petition -- I am not going to let the parties get too far 20 afield into this foot and ankle thing because it's not part of 21 the petition and to the extent that if that's a concern to 22 anyone, it's not on the petition, it's not coming into this 23 hearing, okay? 24 MR. FRANK: That's very helpful because that's what I 25 had to go -- 26 HEARING OFFICER SCHAEFER: <small>He looks at the</small></p>

Page 414	Page 416
<p>1 clarifying for the parties. Okay?</p> <p>2 MR. FRANK: And is the same thing true with the x-ray</p> <p>3 technician, because that's not in the petition either?</p> <p>4 HEARING OFFICER SCHAEFER: <small>The x-ray technician has</small></p> <p>5 never come up before so I would --</p> <p>6 MS. WILCOX: It has come up before.</p> <p>7 MR. FELSTINER: The testimony about -- I'm sorry.</p> <p>8 HEARING OFFICER SCHAEFER: <small>The x-ray technician has</small></p> <p>9 terms of</p> <p>10 -- there has been nothing in the record to indicate that the</p> <p>11 x-ray tech was erroneously left off of -- the x-ray tech is</p> <p>12 not listed as a classification that the Union is seeking.</p> <p>13 MS. WILCOX: Right.</p> <p>14 HEARING OFFICER SCHAEFER: <small>The x-ray technician has</small></p> <p>15 record.</p> <p>16 Is the Union seeking --</p> <p>17 MS. WILCOX: No.</p> <p>18 HEARING OFFICER SCHAEFER: <small>The x-ray technician has</small></p> <p>19 ray tech?</p> <p>20 MS. WILCOX: No. The x-ray tech is already represented</p> <p>21 by 1199.</p> <p>22 HEARING OFFICER SCHAEFER: Okay.</p> <p>23 MS. WILCOX: It's actually -- they're 1199 workers.</p> <p>24 HEARING OFFICER SCHAEFER: <small>The x-ray technician has</small></p> <p>25 contention that the x-ray tech is -- the x-ray tech is not</p> <p>26 part of the petitioned for unit and so I just want to make</p>	<p>1 AFTERNOON SESSION</p> <p>2 (Time: 2:23 p.m.)</p> <p>3 HEARING OFFICER SCHAEFER: <small>The x-ray technician has</small></p> <p>4 So we're convening after lunch.</p> <p>5 On the MSO-10, the Employer's going to try to get -- I'm</p> <p>6 sorry, MSO is going to get us -- you're going to get us a copy</p> <p>7 of the second page.</p> <p>8 MR. FRANK: I'll make it -- produce a copy for tomorrow,</p> <p>9 but it's on the second page it identifies the documents that</p> <p>10 were reviewed.</p> <p>11 HEARING OFFICER SCHAEFER: Okay.</p> <p>12 MR. FRANK: Driver's license and a Social Security</p> <p>13 number and the various numbers of those documents.</p> <p>14 HEARING OFFICER SCHAEFER: <small>The x-ray technician has</small></p> <p>15 page that identifies who the Employer is.</p> <p>16 MR. FRANK: And then it's signed by somebody in HR and</p> <p>17 it's stamped MSO.</p> <p>18 HEARING OFFICER SCHAEFER: <small>The x-ray technician has</small></p> <p>19 again reserve on MSO-10 until the document's complete.</p> <p>20 MR. FRANK: Let me ask this question. We'll certainly</p> <p>21 bring it in for this one document. Do we need to bring it in</p> <p>22 for each and every doc -- in other words, there's just a lot</p> <p>23 of these. Do we need all of them or is one enough of Page 2?</p> <p>24 HEARING OFFICER SCHAEFER: <small>The x-ray technician has</small></p> <p>25 MS. WILCOX: We would like to see -- we would like to</p> <p>26 see what you have --</p>
Page 415	Page 417
<p>1 that clear as we break for lunch, okay?</p> <p>2 All right, thanks. Off the record.</p> <p>3 (Whereupon, a luncheon recess was taken</p> <p>4 from 1:17 p.m. to 2:00 p.m.)</p> <p>5</p>	<p>1 MR. FRANK: Fine.</p> <p>2 MS. WILCOX: -- if you haven't had the second page</p> <p>3 already provided.</p> <p>4 MR. FRANK: Okay.</p> <p>5 HEARING OFFICER SCHAEFER: Okay.</p> <p>6 All right. Mr. Franks, continue with the witness.</p> <p>7 MR. KRUEGER: Just so you understand, if we do --</p> <p>8 produce it for each one we have to redact everything. It's</p> <p>9 not like we can just whip it out and shove it in.</p> <p>10 MR. FRANK: Yeah, with the usual redactions, with</p> <p>11 redactions, yes.</p> <p>12 BY MR. FRANK:</p> <p>13 Q. If your coworker is absent -- strike that.</p> <p>14 Do any of the Methodist MSO-3 clerical employees work in</p> <p>15 Suite B at any time?</p> <p>16 A. I'm sorry, repeat that again?</p> <p>17 Q. Do any of the MSO-3 employed clerical employees work in</p> <p>18 Suite B of One Prospect Park at any time?</p> <p>19 A. No.</p> <p>20 Q. When did Erica cease being an employee?</p> <p>21 HEARING OFFICER SCHAEFER: <small>The x-ray technician has</small></p> <p>22 BY MR. FRANK:</p> <p>23 Q. When? Do you know?</p> <p>24 A. When did she what?</p> <p>25 Q. Is Erica still employed?</p> <p>26 A. No.</p>

Page 418	Page 420
<p>1 Q. When did Erica cease to be an employee? 2 HEARING OFFICER SCHAEFER: <small>She didn't --</small> 3 going to need more. Who's Erica? 4 BY MR. FRANK: 5 Q. In your testimony -- 6 MR. FRANK: She didn't identify her last name. 7 HEARING OFFICER SCHAEFER: Okay. 8 BY MR. FRANK: 9 Q. You said that you got a phone call from Erica and that 10 person's no longer employed at the MSO-3? 11 A. Correct. 12 HEARING OFFICER SCHAEFER: <small>Okay, correct.</small> 13 the records? 14 MR. FRANK: It's going back to 2014. 15 HEARING OFFICER SCHAEFER: <small>Right, okay.</small> 16 MR. FRANK: When she was first hired. 17 HEARING OFFICER SCHAEFER: <small>Yes, she was.</small> 18 that -- or based on the documents is that person Erica 19 Ostrovsky? 20 THE WITNESS: No, she no -- she doesn't work for my 21 knowledge. 22 HEARING OFFICER SCHAEFER: <small>Oh, it's a different --</small> 23 THE WITNESS: Are you talking about -- 24 MR. FELSTINER: Are you asking if that's her name or if 25 she works there, Madam Hearing Officer? 26 HEARING OFFICER SCHAEFER: <small>Right, that's the name.</small></p>	<p>1 Q. Was it more than one day of training? 2 A. Yeah, it was one day training. 3 Q. One day training. Since that completion of that one day 4 training plus the two hours have you had any other training in 5 New York Methodist MSO-3? 6 A. I'm not sure. We did go for a CPR training, but I'm not 7 sure if the charge is affiliated or is part of. There's a 8 church right next door to the New York Methodist MSO-3, if 9 that's part of the MSO-3 or not. 10 Q. Since your initial week of employment, your initial hire, 11 would it be accurate to say that you've had no work contact 12 with the New York Methodist MSO-3 building? 13 HEARING OFFICER SCHAEFER: <small>Yes, correct.</small> 14 that one other time of the MSO-3? I don't think she testified 15 when that was. 16 MR. KRUEGER: She said it was when she was hired. 17 BY MR. FRANK: 18 Q. Okay. Was that when you were first hired? 19 A. When I was first hired, the orientation a couple of 20 weeks, maybe a month so I went back to do training in Eagle. 21 HEARING OFFICER SCHAEFER: <small>Correct.</small> 22 at New York Methodist? 23 THE WITNESS: Correct. 24 HEARING OFFICER SCHAEFER: <small>That's correct.</small> 25 THE WITNESS: Yes. 26 HEARING OFFICER SCHAEFER: <small>Okay, correct.</small></p>
Page 419	Page 421
<p>1 we're talking about. 2 MR. FELSTINER: I assume that -- 3 HEARING OFFICER SCHAEFER: <small>For example, correct.</small> 4 MSO-4, the person who signed the offer of employment is Erica 5 Ostrovsky Is that who you're -- 6 MR. FRANK: Yes. 7 HEARING OFFICER SCHAEFER: <small>Okay, all right.</small> 8 understand. 9 MR. FRANK: Okay. And the witness is not -- try not to 10 put --she said she didn't remember the last name. 11 HEARING OFFICER SCHAEFER: <small>Right, but we can make</small> 12 representations. 13 MR. FRANK: Yes. 14 BY MR. FRANK: 15 Q. Since the completion of -- how long did your initial 16 orientation last? 17 A. Maybe about two hours. 18 Q. Two hours. Since the completion of that two hour 19 orientation have you had any other training in the building of 20 New York Methodist MSO-3 on 6th Street? 21 A. Yes. 22 Q. And when was that? 23 A. I don't know the exact time. It was sometime in -- when 24 I first got hired. 25 Q. Would it be one more day? 26 A. I'm sorry?</p>	<p>1 training other than the CPR thing at the church? 2 THE WITNESS: Training, no. 3 HEARING OFFICER SCHAEFER: Okay. 4 BY MR. FRANK: 5 Q. Have you been back to the MSO-3 for any other work 6 functions since then? 7 A. Yes. 8 Q. When was that? 9 A. I don't remember the exact time. 10 Q. One time? 11 HEARING OFFICER SCHAEFER: <small>What time is that?</small> 12 THE WITNESS: I went to drop off some bills. 13 HEARING OFFICER SCHAEFER: Okay. 14 BY MR. FRANK: 15 Q. That's it, one time? 16 A. Yeah, I believe it was just one time. 17 HEARING OFFICER SCHAEFER: <small>When they were bills?</small> 18 THE WITNESS: Um-hum. They were super bills. 19 HEARING OFFICER SCHAEFER: <small>Super bills?</small> 20 THE WITNESS: Yeah. 21 HEARING OFFICER SCHAEFER: <small>What's a super bill?</small> 22 THE WITNESS: A bill that is generated after a patient 23 is -- came to the office or has the patient diagnosed as 24 colon. That was one of those performed in the office. 25 HEARING OFFICER SCHAEFER: <small>Correct.</small> 26 what office?</p>

<p style="text-align: right;">Page 422</p> <p>1 THE WITNESS: I just know it was on the sixth floor, 2 sixth floor. 3 HEARING OFFICER SCHAEFER: Okay. 4 BY MR. FRANK: 5 Q. Now, the appointments you schedule, are those for visits 6 with the doctor? 7 A. Yes. 8 Q. And do you schedule appointments for all of the doctors 9 in the Wound Care Center? 10 A. Yes. 11 Q. And when you do discharge is that for the doctors' 12 patients? 13 A. Yes. 14 Q. And do you give them instructions on what to do after 15 they're discharged? 16 A. No. 17 Q. Do the LPN's give the instructions to the patients? 18 A. I'm not sure. 19 Q. When you greet patients what do you say to them? 20 A. Can you -- 21 Q. Is there anything you're supposed to say to patients when 22 they come into the -- 23 A. When they come in or over the phone? 24 Q. Yes, when they come in. 25 A. Hello. 26 HEARING OFFICER SCHAEFER: _____</p>	<p style="text-align: right;">Page 424</p> <p>1 and Hyperbolic, that's what you say. 2 HEARING OFFICER SCHAEFER: Okay. 3 BY MR. FRANK: 4 Q. Do you have any involvement with the treatment of 5 patients? 6 A. I'm sorry? 7 Q. Are you involved with treating patients at all? 8 A. No. 9 Q. Is any surgery done in the Wound Care Center, do you 10 know? 11 A. No. 12 MR. FRANK: I have no further questions. 13 HEARING OFFICER SCHAEFER: _____ 14 you know -- you may not know the answer to this so that's 15 okay, but do you know if John Papendick -- he's the hyperbaric 16 tech, right? 17 THE WITNESS: Correct. 18 HEARING OFFICER SCHAEFER: _____ 19 any license like -- he's not an RN -- is he an RN or an LPN? 20 THE WITNESS: No, he's not a nurse. 21 HEARING OFFICER SCHAEFER: Okay. 22 MR. FRANK: I think we stipulated that he's not a nurse. 23 HEARING OFFICER SCHAEFER: _____ 24 thank you. 25 Mr. Felstiner, do you have any other questions? 26 MR. FELSTINER: Yeah.</p>
<p style="text-align: right;">Page 423</p> <p>1 question. If you want to ask -- that's a totally normal 2 answer to that question. 3 BY MR. FRANK: 4 Q. When you talk to them on the telephone what do you 5 discuss with patients? 6 A. (No response.) 7 Q. Do you call patients? 8 A. Yes. 9 Q. Why do you call patients? 10 A. To confirm appointment. 11 Q. And who do you confirm the appointments with, for the 12 physician? 13 A. Yes, for the patient coming in to see the doctor. 14 Q. And do you confirm an appointment with a particular 15 physician? Does the patient know which physician they're 16 going to see? 17 A. The patient doesn't know, but like they have -- the 18 patient might have a preference on which doctor they're going 19 to see and I can tell them that doctor is coming in so and so 20 day. 21 Q. Okay. 22 HEARING OFFICER SCHAEFER: _____ 23 calling from when you're talking on the phone? 24 THE WITNESS: Yes. 25 HEARING OFFICER SCHAEFER: _____ 26 THE WITNESS: The New York Methodist Wound Care Center</p>	<p style="text-align: right;">Page 425</p> <p>1 REDIRECT EXAMINATION 2 BY MR. FELSTINER: 3 Q. Do you still have -- just a second -- MSO-5 up there? 4 A. Okay. 5 Q. You have it, all right. You see in the box in the left- 6 hand corner under doing business as and then it says MSO Kings 7 County LLC care of New York Methodist MSO-3? Did it say that 8 when you signed it? 9 MR. FRANK: Objection. The same objection when I asked 10 that question. 11 MR. FELSTINER: Well, I'm trying to ask it in the same 12 way. I'm trying to ask it in the same way. 13 HEARING OFFICER SCHAEFER: _____ 14 question that could have been asked on voir dire, but it's 15 exhausted. We went over this, but -- 16 MR. FELSTINER: I believe she only testified as to what 17 the space under the name said. I wanted to confirm that the 18 whole thing was filled out. 19 HEARING OFFICER SCHAEFER: _____ 20 MR. FELSTINER: Sure, okay. 21 THE WITNESS: Yes. 22 HEARING OFFICER SCHAEFER: _____ 23 THE WITNESS: Yes. 24 HEARING OFFICER SCHAEFER: Okay. 25 BY MR. FELSTINER: 26 A. Do you interact with the LPN's who work in the Wound Care</p>

Page 426	Page 428
<p>1 Center on a daily basis?</p> <p>2 A. Yes.</p> <p>3 Q. What kind of interaction do you have?</p> <p>4 A. The patient comes in, I'll inform them the patient just</p> <p>5 came in. If they have a call waiting for them I'll notify</p> <p>6 them. If a patient has a question for them, any clinical</p> <p>7 question, I'll refer them -- the nurse to the patient, so I'll</p> <p>8 let the nurse know.</p> <p>9 Q. How often do you contact one of the wound care doctors at</p> <p>10 the Methodist Emergency Room?</p> <p>11 A. I contact them when any other nurses can't answer any of</p> <p>12 the questions or if something that a nurse can't help me with.</p> <p>13 I'm not sure how many -- how often I do that.</p> <p>14 Q. Do you have any interaction with other staff in the</p> <p>15 Emergency Department at New York Methodist?</p> <p>16 A. No.</p> <p>17 Q. When you were asked to work on the weekend who asked you?</p> <p>18 A. Karen. Karen.</p> <p>19 Q. Karen. Is the Eagle System also used by New York</p> <p>20 Methodist MSO-3 for registering patients?</p> <p>21 A. Yes.</p> <p>22 HEARING OFFICER SCHAEFER: <small>Sorry, if you know...</small></p> <p>23 BY MR. FELSTINER:</p> <p>24 Q. If you know, yes.</p> <p>25 MR. FRANK: I didn't hear that.</p> <p>26 THE WITNESS: Yes.</p>	<p>1 for your time.</p> <p>2 THE WITNESS: Thank you.</p> <p>3 (Witness excused.)</p> <p>4 HEARING OFFICER SCHAEFER: <small>Ms. Wilcox?</small></p> <p>5 MS. WILCOX: Yes. Could we have -- let's go off the</p> <p>6 record for a moment?</p> <p>7 HEARING OFFICER SCHAEFER: <small>Yes, off the record.</small></p> <p>8 (Whereupon, a recess was taken from 2:38 p.m. to 2:51 p.m.)</p> <p>9 HEARING OFFICER SCHAEFER: <small>Let's go back on the record.</small></p> <p>10 and call the next witness. Ma'am?</p> <p>11 MR. FELSTINER: Yes, Jeanette Martinez.</p> <p>12 HEARING OFFICER SCHAEFER: <small>Thank you.</small></p> <p>13</p> <p>14</p> <p>15 Whereupon,</p> <p>16 JEANETTE MARTINEZ,</p> <p>17 was called as a witness by and on behalf of the Petitioner</p> <p>18 and, having been first duly sworn, was examined and testified</p> <p>19 on her oath, as follows:</p> <p>20 HEARING OFFICER SCHAEFER: <small>Thank you.</small></p> <p>21 Okay. I'm going to ask you to state and spell your name for</p> <p>22 the record.</p> <p>23 THE WITNESS: Okay. Jeanette, J-e-a-n-e-t-t-e,</p> <p>24 Martinez, M-a-r-t-i-n-e-z.</p> <p>25 HEARING OFFICER SCHAEFER: <small>Thank you.</small></p> <p>26 Wilcox?</p>
Page 427	Page 429
<p>1 BY MR. FELSTINER:</p> <p>2 Q. Does the information that you put into Eagle at One</p> <p>3 Prospect Park West end up on the MSO-3's registration system?</p> <p>4 A. Yes.</p> <p>5 Q. If you know?</p> <p>6 A. Yes.</p> <p>7 MR. FELSTINER: Good enough.</p> <p>8 HEARING OFFICER SCHAEFER: <small>Thank you.</small></p> <p>9 -- when a person comes into the office is there -- can you</p> <p>10 pull them up in the Eagle System?</p> <p>11 THE WITNESS: Yes.</p> <p>12 HEARING OFFICER SCHAEFER: <small>Thank you.</small></p> <p>13 Methodist MSO-3 before do you have to create a new Eagle</p> <p>14 profile for them or can you pull up --</p> <p>15 THE WITNESS: No, I pull -- I use the same number, the</p> <p>16 same medical record number to pull it up.</p> <p>17 HEARING OFFICER SCHAEFER: <small>Thank you.</small></p> <p>18 record number?</p> <p>19 THE WITNESS: I go to Cerner.</p> <p>20 HEARING OFFICER SCHAEFER: <small>Thank you.</small></p> <p>21 find their information and then you go through Eagle?</p> <p>22 THE WITNESS: And then get the number, yes.</p> <p>23 HEARING OFFICER SCHAEFER: <small>Thank you.</small></p> <p>24 any follow up?</p> <p>25 MR. FRANK: No.</p> <p>26 HEARING OFFICER SCHAEFER: <small>Thank you.</small></p>	<p>1 MR. FELSTINER: I'll do it unless you want to rock,</p> <p>2 paper, scissors?</p> <p>3 DIRECT EXAMINATION</p> <p>4 BY MR. FELSTINER:</p> <p>5 Q. Ms. Martinez, what is -- sorry -- what is your job title</p> <p>6 at One Prospect Park West?</p> <p>7 A. I am a clinical assistant LPN.</p> <p>8 Q. And where do you work physically?</p> <p>9 A. I work in Suite B of One Prospect Park West.</p> <p>10 Q. When did you start working in Suite B of One Prospect</p> <p>11 Park West?</p> <p>12 A. May of 2013.</p> <p>13 Q. How did you apply for that position?</p> <p>14 A. I uploaded my resume to Indeed and I just saw an LPN</p> <p>15 position and I just clicked on it. I can't say for sure</p> <p>16 which, I submit a lot of resumes at that time.</p> <p>17 Q. What is Indeed?</p> <p>18 A. Indeed.com is a job searching engine.</p> <p>19 Q. Did you receive a response from a representative of the</p> <p>20 Wound Care Center?</p> <p>21 A. I got a call from an Erica asking me if I would like to</p> <p>22 come in for an interview.</p> <p>23 Q. Is that Erica Ostrovsky?</p> <p>24 A. Yes.</p> <p>25 Q. Did you have an interview with Ms. Ostrovsky?</p> <p>26 A. I did have an interview with her?</p>

<p style="text-align: right;">Page 430</p> <p>1 Q. Where did that take place?</p> <p>2 A. That took place in the Human Resources Office on 9th</p> <p>3 Street.</p> <p>4 Q. Did you interview with anybody else?</p> <p>5 A. Yes. After that they sent me to One Prospect Park West</p> <p>6 where I interviewed with Karen Chan and Nicholas Vaccari.</p> <p>7 Q. Who is Nicholas Vaccari?</p> <p>8 A. He was a Director of the Wound Care Center, Medical</p> <p>9 Director.</p> <p>10 Q. Is he a doctor?</p> <p>11 A. Yes.</p> <p>12 Q. Did you have to get an identification badge before you</p> <p>13 began?</p> <p>14 A. Yes.</p> <p>15 Q. Where did you go to get that?</p> <p>16 A. I went back to Human Resources on 9th Street to get the</p> <p>17 picture taken.</p> <p>18 Q. Did you attend an orientation?</p> <p>19 A. Yes.</p> <p>20 Q. Where was your orientation?</p> <p>21 A. That also was on 9th Street.</p> <p>22 Q. Were you oriented with any other employees?</p> <p>23 A. Yes, there was a group of us.</p> <p>24 Q. Were any of those employees working at One Prospect Park</p> <p>25 West?</p> <p>26 A. Not in Suite B, but I'm not sure if they were going to</p>	<p style="text-align: right;">Page 432</p> <p>1 House across the street from Methodist.</p> <p>2 Q. You said what house?</p> <p>3 A. Wesley.</p> <p>4 HEARING OFFICER SCHAEFER: -----</p> <p>5 second? I just want to ask some questions about the</p> <p>6 orientation before we move on to other stuff.</p> <p>7 At the orientation did they explain -- at any point</p> <p>8 during your -- during May did someone explain to you about</p> <p>9 health insurance? Did you have a conversat -- did you have a</p> <p>10 conversation with someone about health insurance?</p> <p>11 A. In May during orientation when we were going to cover</p> <p>12 health insurance, before she went off she said you're MSO so</p> <p>13 this is -- this doesn't apply to you.</p> <p>14 HEARING OFFICER SCHAEFER: -----</p> <p>15 orientation said that to you?</p> <p>16 THE WITNESS: Yeah, she said that to me.</p> <p>17 HEARING OFFICER SCHAEFER: Okay.</p> <p>18 THE WITNESS: But that was it.</p> <p>19 HEARING OFFICER SCHAEFER: -----</p> <p>20 other types of policies that they were explaining at the</p> <p>21 orientation?</p> <p>22 THE WITNESS: No.</p> <p>23 HEARING OFFICER SCHAEFER: -----</p> <p>24 sick leave, did someone explain your sick leave to you?</p> <p>25 THE WITNESS: Not -- I had gotten a form and it just --</p> <p>26 that was during the interview.</p>
<p style="text-align: right;">Page 431</p> <p>1 any other suite.</p> <p>2 Q. Were any of those employees from Methodist MSO-3, do you</p> <p>3 know?</p> <p>4 A. Yes.</p> <p>5 Q. Did you receive --</p> <p>6 HEARING OFFICER SCHAEFER: -----</p> <p>7 your orientation?</p> <p>8 THE WITNESS: I had orientation in May.</p> <p>9 BY MR. FELSTINER:</p> <p>10 Q. Was that May of 2013?</p> <p>11 A. Yes.</p> <p>12 Q. Okay. Didn't you receive any materials during your</p> <p>13 orientation?</p> <p>14 A. I got an employee handbook, also other policies. I'm not</p> <p>15 sure exactly what was in there, but I did receive a handbook.</p> <p>16 Q. Did everybody receive the same documents during the</p> <p>17 orientation?</p> <p>18 A. From what I saw, yes.</p> <p>19 Q. Let me rephrase that. Everybody who attended that</p> <p>20 orientation received the same documents?</p> <p>21 A. Yes, we all got the same packet.</p> <p>22 Q. Did you have to undergo a drug test before you started</p> <p>23 employment?</p> <p>24 A. Yes and a physical.</p> <p>25 Q. And a physical? Where were those conducted?</p> <p>26 A. They were at the Employee Health located in the Wesley</p>	<p style="text-align: right;">Page 433</p> <p>1 HEARING OFFICER SCHAEFER: Okay.</p> <p>2 THE WITNESS: And which was all the hours I would</p> <p>3 accrue, but that was about it.</p> <p>4 HEARING OFFICER SCHAEFER: -----</p> <p>5 given to you during that interview?</p> <p>6 THE WITNESS: Yeah.</p> <p>7 HEARING OFFICER SCHAEFER: -----</p> <p>8 health insurance specifically at your site?</p> <p>9 THE WITNESS: I think when I was going to apply,</p> <p>10 honestly. I'm not quite sure.</p> <p>11 HEARING OFFICER SCHAEFER: -----</p> <p>12 continue, Alex, or Mr. Felstiner. Sorry.</p> <p>13 BY MR. FELSTINER:</p> <p>14 Q. Can you describe your job duties as an LPN?</p> <p>15 A. Okay. I assess patients, first health history, then if</p> <p>16 they have wounds I assist their wounds, whole body. I do</p> <p>17 referrals for home agency. I sometimes order drugs from the</p> <p>18 Pharmacy if needed. I can run the hyperbarics if needed.</p> <p>19 I'll answer phones if we have to, if they need help answering</p> <p>20 phones.</p> <p>21 I answer calls from other nurses, from other agencies</p> <p>22 about patient doctors that we also see in our clinic. I'm</p> <p>23 trying to think.</p> <p>24 Q. Where do you order drugs from?</p> <p>25 A. Drugs come from the Pharmacy, only certain drugs come</p> <p>26 from in-house Pharmacy.</p>

<p style="text-align: right;">Page 434</p> <p>1 Q. What's the in-house Pharmacy? 2 A. In Methodist Hospital. 3 Q. Which drugs? 4 A. Santo, Lidocaine, injectable, stuff like that. 5 Lumocaine, just a lot of cotton and also drugs that 6 podiatrists may use for numbing or for heal spurs, those types 7 of drugs. 8 Q. How do you submit that order? 9 A. We fax it over. 10 Q. Do you use the same form every time? 11 A. Yes. 12 Q. And who do you fax it to? 13 A. I'm not -- it's the Pharmacy. I don't know exactly the 14 person's name, but the Pharmacy number at the top. 15 Q. Do you ever talk to anyone in that Pharmacy Department on 16 the phone? 17 A. Only if Karen's not available which is not often. 18 HEARING OFFICER SCHAEFER: <small>But have you ever?</small> 19 THE WITNESS: I have. 20 HEARING OFFICER SCHAEFER: Okay. 21 BY MR. FELSTINER: 22 Q. What did you discuss? 23 A. They'll ask if maybe the number -- if it was 15 instead 24 of 4, something like that. 25 Q. Of a particular -- 26 A. Yeah, whatever's on the sheet if they have a question of</p>	<p style="text-align: right;">Page 436</p> <p>1 Q. What kind of treatments do you provide? 2 A. Besides medicating the wound site, we might apply a 3 multi-layer compression wrap, a wound boot. I have helped 4 with a contact cast, applied negative pressure wound vac 5 therapy. 6 Q. How about if they're going to get hyperbaric treatment, 7 do you -- 8 A. Then if they do -- if they're going to do hyperbarics -- 9 if I knew they were coming in for hyperbaric orientation, I'll 10 go into Cerner, pull up the H&P and get as much information 11 off of that as I can. 12 Q. What is an H&P? 13 A. History and physical assessment, usually whatever the -- 14 I usually try to find the one that's surgical the physician 15 put into the system. They usually have the best information 16 and that's about it. 17 Q. If you go into Cerner to get that, is that records from 18 the hospital? 19 A. Yes. 20 Q. If you know? 21 A. Yes. 22 Q. So that would be for a patient that's already been seen 23 at the hospital? 24 A. Even if it's a new patient, it's -- I just have a habit 25 of when I come in in the morning I look at the schedule. If I 26 see there's a new patient I'll copy that MR number and go into</p>
<p style="text-align: right;">Page 435</p> <p>1 the sheet. 2 HEARING OFFICER SCHAEFER: <small>What is the Pharmacy?</small> 3 located, if you know? 4 THE WITNESS: In the hospital. 5 BY MR. FELSTINER: 6 Q. Are you ever present -- strike that. 7 What does -- after you've assessed wounds what kind of 8 treatment does the Wound Care Center provide? 9 A. What types of treatments? Can you be more specific? 10 Q. I wish. Well, suppose somebody comes in with a serious 11 wound of some kind. You assess it, then what happens? 12 A. So first I'll assess it, I'll measure it, take a picture, 13 do all that, put it in the computer. Then I usually go out, 14 have a little conference with the doctor and then they'll come 15 back with me. 16 Q. The doctor will come back with you? 17 A. Yes. 18 Q. What happens then? 19 A. And then he'll assess the wound as well and then he'll 20 make a suggestion and I've been there long enough that I could 21 say I don't know, you know, I don't really -- I don't feel 22 like that wound will benefit from that. 23 And they'll listen. You know, they do make the final 24 decision of course always, but -- and then they decide what 25 the treatment will be and then we initiate the treatment, the 26 nurse.</p>	<p style="text-align: right;">Page 437</p> <p>1 Cerner, see if they have a chart established that I could grab 2 some of their info because we do not -- we use Wound Expert in 3 the clinic. 4 HEARING OFFICER SCHAEFER: <small>What is MR number?</small> 5 THE WITNESS: Medical record number. 6 HEARING OFFICER SCHAEFER: <small>What is MR number?</small> 7 BY MR. FELSTINER: 8 Q. And what was it that you don't use? 9 HEARING OFFICER SCHAEFER: <small>What is MR number?</small> 10 just said we don't use? 11 THE WITNESS: We don't use Cerner for wounds. 12 HEARING OFFICER SCHAEFER: <small>What is MR number?</small> 13 THE WITNESS: We use Wound Expert. 14 HEARING OFFICER SCHAEFER: <small>What is MR number?</small> 15 Expert? 16 THE WITNESS: It's a -- it's a compare charting system 17 in which you could actually pick a wound size, depth, color, 18 all the things that we can't get in Cerner, but they have 19 something so we're trying to get that. 20 HEARING OFFICER SCHAEFER: <small>What is MR number?</small> 21 in Wound Expert, if you put data in Wound Expert does that 22 somehow later get put into Cerner? Are they compatible with 23 each other? 24 THE WITNESS: No. 25 HEARING OFFICER SCHAEFER: <small>What is MR number?</small> 26 BY MR. FELSTINER:</p>

<p style="text-align: right;">Page 438</p> <p>1 Q. Does that mean you can enter stuff into Cerner as well as 2 Wound Expert? 3 A. I don't enter stuff on Cerner unless I'm working in the 4 different clinic. 5 HEARING OFFICER SCHAEFER: <small>Where do you put the</small> 6 information? 7 THE WITNESS: What do you mean? 8 HEARING OFFICER SCHAEFER: <small>He doesn't say</small> 9 when you're inputting it from -- 10 THE WITNESS: I don't use Eagle. 11 HEARING OFFICER SCHAEFER: <small>He doesn't say</small> 12 information into the record about someone's treatment or issue 13 -- 14 THE WITNESS: In which record? 15 HEARING OFFICER SCHAEFER: <small>That's what he's asking</small> 16 THE WITNESS: Okay. 17 HEARING OFFICER SCHAEFER: <small>He doesn't say</small> 18 information that you've gathered about the person? 19 THE WITNESS: So for our purposes, the information we 20 gather, we put it on Wound Expert. 21 HEARING OFFICER SCHAEFER: Okay. 22 THE WITNESS: So that's for -- 23 HEARING OFFICER SCHAEFER: <small>That's what he's asking</small> 24 of a closed system, it doesn't touch Cerner? 25 THE WITNESS: No, it doesn't collaborate with Cerner. 26 HEARING OFFICER SCHAEFER: <small>All right.</small></p>	<p style="text-align: right;">Page 440</p> <p>1 performed out-patient setting. So we still do consent forms, 2 we do a time out, we get a sterile field and the physician 3 applies the graft. 4 HEARING OFFICER SCHAEFER: <small>A sterile field?</small> 5 THE WITNESS: Yeah. 6 HEARING OFFICER SCHAEFER: <small>He doesn't say</small> 7 THE WITNESS: A time out is a whole procedure before you 8 start, make sure you have the right equipment, the right site. 9 HEARING OFFICER SCHAEFER: Okay. 10 BY MR. FELSTINER: 11 Q. What's your involvement in that whole process? Maybe I 12 could -- let me do a little more specific. Are you involved 13 in preparing a sterile field? 14 A. Yes. 15 Q. Are you involved in checking to make sure that you have 16 the right site and right everything for time out? 17 A. Yes. 18 Q. Are you present for the procedure? 19 A. Yes. 20 Q. Do you assist in the procedure? 21 A. Yes. 22 Q. What kind of assistance? 23 HEARING OFFICER SCHAEFER: <small>He doesn't say</small> 24 THE WITNESS: It depends what physician. One physician 25 always has a resident with him. The rest are pretty self- 26 standing, so it would just be me and the physician.</p>
<p style="text-align: right;">Page 439</p> <p>1 BY MR. FELSTINER: 2 Q. Do you provide those treatments alone or with the 3 doctors? 4 A. The doctor gives me the order and then -- 5 Q. So you do the casts? 6 A. I don't do contact casts. 7 Q. Okay. Who does those? 8 A. The doctor does that. 9 Q. Which ones do you do on your own? 10 A. Multi-layers, in the boots, vacs, magna-pressure wound 11 therapy, and then treatment dressings. We do all those 12 patching. 13 Q. When you say we, you mean? 14 A. The nurses. 15 Q. The nurses? 16 HEARING OFFICER SCHAEFER: <small>The LPN's?</small> 17 THE WITNESS: Yes. 18 BY MR. FELSTINER: 19 Q. Does the Wound Care Center perform skin grafts? 20 A. Yes. 21 Q. On -- in site or at the hospital? 22 A. We have in site grafts. 23 Q. Who -- maybe you can describe what it takes to put a skin 24 graft on so I don't flounder around? 25 A. A lot of the grafts are -- there's a lot of different 26 types of grafts, there are live cells, so they can be</p>	<p style="text-align: right;">Page 441</p> <p>1 HEARING OFFICER SCHAEFER: <small>All right.</small> 2 BY MR. FELSTINER: 3 Q. I think I asked what type of assistance you provide 4 during the procedure? 5 A. I will pass them the graft, if needed, any equipment they 6 need. 7 Q. Do such procedures need to get approved in advance by 8 anybody besides the doctor? 9 A. Yes, it has to be authorized by their insurance. 10 Q. If somebody has another treating physician or it comes 11 from the hospital, do they need other authorizations? 12 A. I don't understand. 13 Q. Well, yeah, strike that. 14 What kind of interaction do you have with the clerical 15 staff? 16 A. I go -- I go up to the front when I want to tell them 17 when the patient's coming back. If I need them to call a 18 patient, if I need them to get a vascular study, if I need -- 19 if I need them I usually ask them for assistance. 20 Q. What's a vascular setting? 21 A. A lot of our patients have lower leg wounds so that has 22 to do with vascular, so you get a vascular site to see how 23 well your blood flows and how the arteries and the veins are. 24 So they have to get that done in the hospital and so we have 25 to have the lady from vascular fax a report over because they 26 do not coincide.</p>

<p style="text-align: right;">Page 442</p> <p>1 Q. Are the patients referred to the hospital to get the 2 vascular study? 3 A. Yes. 4 Q. When you said you had to contact the clerical staff about 5 vascular study what are you asking them to do? 6 A. Can you call Vascular and get results for such-and-such 7 patient? 8 Q. So then you have already done it -- maybe I'm not 9 understanding. You may have already done the vascular study 10 and you're getting results? 11 A. Yes. 12 Q. If one has not been done do you have to refer them? 13 A. Yes. Usually a new patient, depending on the wound or we 14 already know -- usually all patients should get a vascular 15 study so we'll suggest it or the doctor just initiates it and 16 gives them a script right away. 17 Q. Have you received any training in the Cerner software? 18 A. Yes. 19 Q. Where did you receive that training? 20 A. I went to the IT in Wesley House and I did, along with 21 the other LPN that I work with, and we both did it at the same 22 time. 23 Q. Did you ever receive CPR training? 24 A. Yes. 25 Q. Where was that? 26 A. I had it, I had it renewed at the Wesley House as well.</p>	<p style="text-align: right;">Page 444</p> <p>1 renew your physical, that's what I meant? 2 A. Every year in our office we go in October. 3 Q. Where do you go for that? 4 A. We go to the Human -- I mean the Employee Health in the 5 Wesley House. 6 Q. What kind of medical supplies do you use? That's too 7 vague. Strike that. 8 Where -- do you administer medications, prescription 9 medications at the Wound Care Center? 10 A. No. 11 Q. Do you administer non-prescription medications? 12 A. Yes. 13 Q. Where do those come from -- or let me -- have you ever 14 ordered those? 15 A. Non-prescription medication? 16 Q. Yes. 17 A. I don't order them. 18 Q. Do you ever distribute prescription medications? 19 A. No. 20 Q. What about dressings, do you -- you said you put 21 dressings on patients? 22 A. Yes. 23 Q. Okay. What happens when you run out of dressings? 24 A. We -- usually weekly we look at this. There's one person 25 designated to look at the stockroom, which I may assist at 26 time given times and we'll assess what needs to be replaced.</p>
<p style="text-align: right;">Page 443</p> <p>1 Q. Did you receive fire emergency training? 2 A. We have every six months or so. 3 Q. Who performs that? 4 A. I don't know his name. The gentleman comes from the 5 hospital. He also does self-defense courses. 6 Q. Does he do self-defense courses on the site? 7 A. Um-hum. I've had a self-defense course. 8 Q. When was that? 9 A. I'm not sure if it was last year or the year before that. 10 HEARING OFFICER SCHAEFER: _____ 11 that course or is it just open to anyone who wanted to take 12 it? 13 THE WITNESS: It was offered to the employees at One PW. 14 HEARING OFFICER SCHAEFER: _____ 15 that class -- how you became aware of that class? 16 THE WITNESS: They came -- I'm not sure, I'm thinking 17 that something happened why they came, but I can't -- I'm not 18 a hundred percent sure. 19 HEARING OFFICER SCHAEFER: _____ 20 like an e-mail that went out, hey, we're going to have a self- 21 defense class, sign up if you want? 22 THE WITNESS: No. 23 HEARING OFFICER SCHAEFER: All right. 24 BY MR. FELSTINER: 25 Q. Yeah, did you have -- I think you testified about a 26 physical. Do you still have to do physicals? Do you have to</p>	<p style="text-align: right;">Page 445</p> <p>1 And then there's a form that Karen typed out and we could 2 signify what we need on the side and then usually she'll go 3 over the list again and it gets faxed over to Central. 4 Q. To where? 5 A. Central Supply. 6 Q. Where is that Central Supply Office? 7 A. At the hospital. 8 Q. Who faxes it over? 9 A. Sometimes Renee would fax it over. 10 Q. Is Renee the person who's -- you said -- you mentioned 11 somebody's designated for this. Is he the person? 12 A. Yes, Renee. 13 Q. Do you ever have to get approval before using certain 14 kinds of supplies? 15 A. Yes. Grafts have to be approved before they can be used 16 on a patient. Certain medications that we apply on wounds has 17 to be approved before they -- we can use them on wound care 18 patients in the clinic. 19 Q. Who gives that approval? 20 A. Karen seeks approval from the hospital for those things. 21 Usually the wound care nurse at the hospital approves for the 22 use of certain medications. 23 Q. What kind of supplies go on that template form that you 24 mentioned? I don't want to testify for you. What kind of 25 things would you be asking for more of? 26 A. Lidocaine, Xylocaine, Santo, that's a big one. Graphs</p>

<p style="text-align: right;">Page 446</p> <p>1 could be graphics, appligraft, base cell. 2 Q. Who delivers them? 3 A. The grafts come through a postage. 4 Q. And the rest of the supplies? 5 A. The rest of the supplies come from the Pharmacy with the 6 courier. 7 Q. Have you ever interacted with this courier? 8 A. Yes, plenty of times. 9 Q. Do you know his name, corporate name? 10 A. His name is Mark. I don't know his last name. 11 Q. Do you know if he works for the hospital? 12 A. He does. 13 Q. How do you know? 14 A. Besides his name tag he drives a truck that has New York 15 Methodist Hospital on it. 16 HEARING OFFICER SCHAEFER: <small>He is the person who</small> 17 tag. What does his name tag identify him as? 18 THE WITNESS: It just says New York Methodist. 19 HEARING OFFICER SCHAEFER: <small>It is -- and I can ask it</small> 20 or I can ask it. Is it yellow or blue? 21 THE WITNESS: I don't look at that. 22 HEARING OFFICER SCHAEFER: <small>He is the person who</small> 23 is? 24 THE WITNESS: No. 25 BY MR. FELSTINER: 26 Q. Does the same person also deliver laundry?</p>	<p style="text-align: right;">Page 448</p> <p>1 A. Sterile Processing. 2 Q. Do you know where Sterile Processing is located? 3 A. It's in the hospital. 4 Q. Do you send them out by the same courier? 5 A. Yes, if he's available. 6 Q. Otherwise what do you do? 7 A. Otherwise Renee walks over. 8 Q. And how do they come -- by what method do they come back 9 to the office once they've been cleaned? 10 A. By the courier. 11 Q. What system do you use for punching in and out? 12 A. Kronos. 13 Q. Where do you punch in and out? 14 A. I usually punch in in Room 2. 15 Q. Have you ever accessed the New York Methodist Intranet? 16 A. Yes. 17 Q. Do you have access from your computer terminal? 18 A. Yes. 19 Q. What have you used it for? 20 A. I went on there to get a letter, print out the 21 application for tuition reimbursement. I go on there to look 22 at tickets at work. Any -- if we have to use it -- yearly we 23 have to do a blood borne pathogen renewal, we'll go on there 24 to get that. 25 HEARING OFFICER SCHAEFER: <small>Get the form?</small> 26 THE WITNESS: Yeah, it's like a program. It will say</p>
<p style="text-align: right;">Page 447</p> <p>1 A. Yes. 2 Q. And pick up laundry? 3 A. Yes. 4 Q. Do you give out the juice and cookies or someone else? 5 A. If I'm in the hyperbaric -- 6 MR. FRANK: Objection. 7 MR. FELSTINER: Fair enough. 8 MR. FRANK: I'm curious how that's relevance to the 9 issue. 10 HEARING OFFICER SCHAEFER: <small>He is the person who</small> 11 that the cookies are made at -- where the cookies are made or 12 ordered from. 13 MR. FRANK: What is it? What is the relevance of 14 cookies to the -- 15 HEARING OFFICER SCHAEFER: <small>It is the person who</small> 16 supplies and the origin of the supplies. It's not relevant 17 who gives out the cookies, but -- 18 MR. FRANK: That was the question. 19 HEARING OFFICER SCHAEFER: <small>Yes, all right</small> 20 MR. FELSTINER: Withdrawn. 21 BY MR. FELSTINER: 22 Q. What kind of instruments do you work with personally? 23 A. Scissors, nail clippers, cue tips. 24 Q. Are the scissors and nail clippers sterilized on site? 25 A. No, they're sent out. 26 Q. Where are they sent?</p>	<p style="text-align: right;">Page 449</p> <p>1 it's time to do the blood borne pathogen. It'll be in the 2 Intranet. 3 HEARING OFFICER SCHAEFER: <small>He is the person who</small> 4 to take or like a certification you have to pass every year? 5 THE WITNESS: Yeah, it's like a little certification. 6 HEARING OFFICER SCHAEFER: <small>That is the person who</small> 7 through like a -- 8 THE WITNESS: Read it, answer a couple of questions. 9 HEARING OFFICER SCHAEFER: Got it. 10 BY MR. FELSTINER: 11 Q. Who gives you that message that it's time to do another 12 test? 13 A. Karen. 14 Q. Have you ever had a performance evaluation? 15 A. Yes. 16 Q. When was your last performance evaluation? 17 A. I'm up to date, so the last maybe November, October. I'm 18 not quite sure. I haven't had one this year yet. 19 Q. Who gave you your last performance evaluation? 20 A. Karen Chan. 21 Q. Was it in person? 22 A. Yes. 23 Q. Was anybody else present? 24 A. No. 25 Q. Who do you submit the tuition reimbursement to? 26 A. I have to walk over the application to the Human</p>

<p style="text-align: right;">Page 450</p> <p>1 Resources on the ninth floor and I would give it -- it goes to 2 a Alaina Buchanan or Judy. I do not know her last name, but 3 usually they're not available so I would leave it with the 4 receptionist on -- in the front. 5 Q. Where is that again? 6 A. On 9th Street. 7 Q. 9th Street? 8 HEARING OFFICER SCHAEFER: 9 program? 10 THE WITNESS: It was -- came up during orientation. 11 HEARING OFFICER SCHAEFER: Okay. 12 BY MR. FELSTINER: 13 Q. Do patients in the wound care facility ever need to 14 receive x-rays? 15 A. Yes. 16 Q. Can they get them on site? 17 A. Yes. 18 Q. Do you have any involvement in referring them to an x- 19 ray? 20 A. If they're there for HBO evaluation they must get a chest 21 x-ray so I already know that. 22 Q. What's HBO? 23 A. Hyperbaric Oxygen Therapy. 24 Q. Do patients that need HBO have to get an x-ray before 25 they undergo any HBO treatment? 26 A. Yes.</p>	<p style="text-align: right;">Page 452</p> <p>1 A. Blue scrubs. 2 HEARING OFFICER SCHAEFER: 3 to wear blue scrubs? 4 THE WITNESS: No. We can wear what we want, but we 5 choose to wear blue. 6 HEARING OFFICER SCHAEFER: 7 blue scrubs? 8 THE WITNESS: Yes, all the nurses wear the same. 9 HEARING OFFICER SCHAEFER: 10 THE WITNESS: No. 11 HEARING OFFICER SCHAEFER: 12 work tomorrow are you going to get in trouble for doing that? 13 THE WITNESS: No. 14 HEARING OFFICER SCHAEFER: 15 You have to say no. 16 THE WITNESS: No, sorry. 17 HEARING OFFICER SCHAEFER: Okay. 18 BY MR. FELSTINER: 19 Q. Have you ever received gifts in recognition for your 20 work? 21 A. Two years ago I received a jacket, under armor jacket and 22 last year I received a fleece that had New York Methodist 23 Ambulatory on the left side. 24 Q. Who gave you the fleece that said New York Methodist 25 Ambulatory? 26 A. Karen did. All the staff got one.</p>
<p style="text-align: right;">Page 451</p> <p>1 Q. Who performs that x-ray? 2 A. Not every HBO treatment, just initial HBO treatment. 3 Q. Who performs that x-ray? 4 A. The technician. 5 Q. Where is the technician located? 6 A. In Suite B. 7 Q. Do you have to give the technician anything in order to 8 authorize an x-ray? 9 A. We have a paper. They -- we put on the patient's name, 10 diagnosis, the doctor signs it and then we give that to the 11 x-ray technician. 12 Q. Have you attended any events at New York Methodist 13 Hospital? 14 A. I have gone to Nurses' Week. 15 Q. What's Nurses' Week? 16 A. Where they celebrate Nurses' Week. I usually go just for 17 one day when they have food and prizes for free. 18 Q. Is that every year? 19 A. Yes. 20 MR. FRANK: Let the record reflect a lot of smiles in 21 the room. 22 (Laughter.) 23 BY MR. FELSTINER: 24 Q. Do you wear a uniform? 25 A. Yes, I do. 26 Q. What is it?</p>	<p style="text-align: right;">Page 453</p> <p>1 Q. Sorry? 2 A. All the staff got one. 3 Q. And who gave you the jacket? 4 A. The jacket I got as a gift, Dr. Vacarri gave it to us, 5 the nurses, but it came from the hospital, from the doctors in 6 the hospital. 7 Q. How do you know that? 8 A. Because they called for our size. 9 Q. Who's they? 10 A. Someone in the Emergency Room called Karen for our size, 11 for the nurses' sizes to get the jacket. 12 HEARING OFFICER SCHAEFER: 13 on it? 14 THE WITNESS: No, it's an under armor jacket. We got it 15 for Christmas. 16 HEARING OFFICER SCHAEFER: 17 that nurses' week thing -- sorry, I just want to go ask -- go 18 back to the Nurses' Week. Is that a New York Methodist 19 Nurses' Week or is that a -- like an unofficial, like you 20 know, holiday like yesterday was National Siblings Day? 21 THE WITNESS: Well, it's a National Nurses' Week, but 22 Methodist does for nurses, they'll have that day when you can 23 go. 24 HEARING OFFICER SCHAEFER: 25 the MSO nurses were invited to participate in that or -- 26 THE WITNESS: I just take it as the nurses come, yes.</p>

<p style="text-align: right;">Page 454</p> <p>1 HEARING OFFICER SCHAEFER: <small>(b) (5) - (D)</small> 2 mail about it? 3 THE WITNESS: Well, we know when Nurses' Week is so 4 Karen always tells us today's the dinner or -- I don't get 5 invited to the dinner because I'm not an RN, but to the 6 hospital facility, cafeteria brunch thing I get invited. 7 HEARING OFFICER SCHAEFER: <small>(b) (5) - (D)</small> 8 BY MR. FELSTINER: 9 Q. I'm going to show you a document. 10 HEARING OFFICER SCHAEFER: <small>(b) (5) - (D)</small> 11 compare National Siblings Day to Nurses' Week. I understand. 12 THE WITNESS: That's okay. 13 MR. FRANK: Certainly it's far more important. All 14 right? 15 MS. WILCOX: I'm showing the witness Union 3. 16 (Whereupon, the document was handed to the witness.) 17 MR. FRANK: 3? 18 MS. WILCOX: 3. 19 BY MR. FELSTINER: 20 Q. Do you recognize this document? 21 MR. FRANK: May I see it, counsel? 22 A. Yes, I do. 23 HEARING OFFICER SCHAEFER: <small>(b) (5) - (D)</small> 24 MS. WILCOX: It's already in the record. 25 HEARING OFFICER SCHAEFER: Oh. 26 BY MR. FELSTINER:</p>	<p style="text-align: right;">Page 456</p> <p>1 HEARING OFFICER SCHAEFER: <small>(b) (5) - (D)</small> 2 were in the article doctors or LPN's or nurses from the Wound 3 Care Center? 4 THE WITNESS: It was a Dr. Shapiro. He's a vascular 5 doctor. He appeared in the article. He was working on site 6 with us, but he does no longer. 7 HEARING OFFICER SCHAEFER: <small>(b) (5) - (D)</small> 8 Frank. 9 MR. FRANK: Thank you. 10 CROSS EXAMINATION 11 BY MR. FRANK: 12 Q. Ms. Martinez, when did you actually start working at One 13 Prospect Park West? 14 A. In May of 2013. 15 Q. And when was your orientation completed? 16 A. In May of 2013. 17 Q. Since your orientation was completed have you worked 18 every day at One Prospect Park West? 19 A. Yes. 20 Q. Every single day? 21 A. Yes. 22 Q. Thank you. Have you ever been assigned to work at New 23 York Methodist Hospital on 6th Street? 24 A. Assigned, no. 25 Q. When you punch in in the morning do you punch in at One 26 Prospect Park West?</p>
<p style="text-align: right;">Page 455</p> <p>1 Q. What is it? 2 A. It's a letter we received after the petition was 3 withdrawn. 4 Q. Who -- 5 HEARING OFFICER SCHAEFER: <small>(b) (5) - (D)</small> 6 (Whereupon, there was a brief pause.) 7 MR. FRANK: Go ahead, I know what it is. 8 HEARING OFFICER SCHAEFER: <small>(b) (5) - (D)</small> 9 BY MR. FELSTINER: 10 Q. Who gave it to you? 11 A. This one Jeffrey Donovan gave me. 12 Q. Where was that? 13 A. I was in Suite B in One Prospect Park West. 14 Q. This is a copy given to everybody, if you know? 15 A. Yes. 16 MR. FELSTINER: That's all I have. Wait, actually, hold 17 that. 18 BY MR. FELSTINER: 19 Q. Ms. Martinez, have you ever received any recognition from 20 New York Methodist Hospital for your work as an LPN? 21 A. I was in a magazine, industry magazine with a couple of 22 other doctors and another nurse. 23 Q. When was that? 24 A. Last October, I think. 25 Q. Do you recall the subject of the -- 26 A. It was to highlight New York Methodist Wound Care Center.</p>	<p style="text-align: right;">Page 457</p> <p>1 A. Yes. 2 Q. And do all of the employees of the Wound Care Center 3 punch in on their computers at One Prospect Park West? 4 A. I believe so. 5 Q. Do any of the employees at One Prospect Park West wear 6 uniforms that say New York Methodist Hospital? 7 A. No. 8 Q. Now, refer to the x-ray technician. Is there -- are the 9 x-rays taken in a separate x-ray room? 10 A. The room technically is not separated because there's 11 only one door that they can access from inside and one door 12 outside for a patient coming through. 13 Q. But the x-ray room, there's an entrance from the hallway? 14 A. For patients. 15 Q. And that hallway door is down the hall from the entrance 16 to Suite B? 17 A. Yes. 18 Q. And Suite B has its own entrance? 19 A. Yes. 20 Q. And x-ray has an entrance in the hallway? 21 A. It has. For the patient, yes. 22 Q. Other than going to the Nurses' Week party is the fact 23 that you have not been a participant in any other activities 24 in the hospital on 6th Street? 25 A. I'm not sure. 26 Q. Now, when x-rays are ordered, those are ordered by the</p>

<p style="text-align: right;">Page 458</p> <p>1 doctor?</p> <p>2 A. Yes.</p> <p>3 Q. You don't order x-rays, do you?</p> <p>4 A. No, I'm a nurse. You need a doctor's signature for</p> <p>5 everything.</p> <p>6 Q. And when you say you're a nurse, that's a licensed</p> <p>7 practical nurse?</p> <p>8 A. Yes.</p> <p>9 Q. As a licensed practical nurse are you allowed to</p> <p>10 prescribe medications?</p> <p>11 A. No.</p> <p>12 Q. Are you allowed to give injections?</p> <p>13 A. Yes.</p> <p>14 Q. Okay. What kind of injections?</p> <p>15 A. As the scope of an LPN I can give insulin, many -- many</p> <p>16 injections.</p> <p>17 Q. And when you do that, when you provide insulin injections</p> <p>18 or the like, that's under the direction of a licensed</p> <p>19 physician?</p> <p>20 A. Yes, but not in the Wound Care Center.</p> <p>21 Q. But not in the Wound -- okay. All right. So as an LPN</p> <p>22 you can give injections.</p> <p>23 A. Yes.</p> <p>24 Q. But in the Wound Care Center you don't do that?</p> <p>25 A. We don't, no.</p> <p>26 Q. Okay. Who gives injections in the Wound Care Center?</p>	<p style="text-align: right;">Page 460</p> <p>1 MR. FRANK: I have some exhibits. What's our next</p> <p>2 number?</p> <p>3 HEARING OFFICER SCHAEFER: <small>Eleven.</small></p> <p>4 MR. FRANK: What?</p> <p>5 HEARING OFFICER SCHAEFER: <small>Eleven.</small></p> <p>6 MR. FRANK: All right.</p> <p>7 BY MR. FRANK:</p> <p>8 Q. I'm showing you what's been marked as Exhibit U-11. Is</p> <p>9 this the --</p> <p>10 HEARING OFFICER SCHAEFER: <small>MSO-11. Sure.</small></p> <p>11 BY MR. FRANK:</p> <p>12 Q. I'm sorry, MSO-11, my apologies. Is this your paycheck</p> <p>13 stub from March 10th, 2016?</p> <p>14 (MSO Exhibit 11 identified.)</p> <p>15 A. It appears to be.</p> <p>16 Q. With redactions of all the specifics?</p> <p>17 A. Yeah.</p> <p>18 MR. FRANK: Okay. I offer it.</p> <p>19 HEARING OFFICER SCHAEFER: <small>Any objection?</small></p> <p>20 MR. FELSTINER: No.</p> <p>21 HEARING OFFICER SCHAEFER: <small>MSO-11 is marked.</small></p> <p>22 (MSO Exhibit 11 received.)</p> <p>23 MR. FRANK: And the application for employment I'd like</p> <p>24 to mark as MSO-12.</p> <p>25 (MSO Exhibit 12 identified.)</p> <p>26 MS. WILCOX: Do you have a complete document? Page 6 is</p>
<p style="text-align: right;">Page 459</p> <p>1 A. The physician.</p> <p>2 Q. Where did you go to school?</p> <p>3 HEARING OFFICER SCHAEFER: <small>It's not relevant.</small></p> <p>4 MR. FRANK: It's not?</p> <p>5 HEARING OFFICER SCHAEFER: <small>That's right.</small></p> <p>6 MR. FRANK: Aren't the qualifications of technical</p> <p>7 employees relevant?</p> <p>8 HEARING OFFICER SCHAEFER: <small>Yes, we want to know.</small></p> <p>9 I mean it's stipu -- she testified she's an LPN.</p> <p>10 MR. FRANK: So is there a stipulation that LPN's are</p> <p>11 technical employees?</p> <p>12 HEARING OFFICER SCHAEFER: Yes.</p> <p>13 MS. WILCOX: I believe we have already stipulated to</p> <p>14 that.</p> <p>15 HEARING OFFICER SCHAEFER: Yes.</p> <p>16 MR. FRANK: What?</p> <p>17 HEARING OFFICER SCHAEFER: <small>Yes, we want to know.</small></p> <p>18 MS. WILCOX: I believe we've already stipulated to that.</p> <p>19 HEARING OFFICER SCHAEFER: <small>Yes, we want to know.</small></p> <p>20 BY MR. FRANK:</p> <p>21 Q. And who do you receive paychecks from?</p> <p>22 A. The physical?</p> <p>23 Q. Yes. Do you get paychecks?</p> <p>24 A. Yes, I do.</p> <p>25 Q. And on your paycheck who is described as your Employer?</p> <p>26 A. MSO of Kings County Co., New York Methodist Hospital.</p>	<p style="text-align: right;">Page 461</p> <p>1 missing from our copy.</p> <p>2 MR. FRANK: Mine too.</p> <p>3 HEARING OFFICER SCHAEFER: <small>That's not relevant.</small></p> <p>4 this one as well.</p> <p>5 MR. FRANK: Off the record for a second.</p> <p>6 HEARING OFFICER SCHAEFER: Sure.</p> <p>7 (Whereupon, there was a brief pause off the record.)</p> <p>8 HEARING OFFICER SCHAEFER: <small>Back on the record.</small></p> <p>9 MR. FRANK: I'm handing Page 6 to her.</p> <p>10 Ms. Wilcox, I assume the same form is in the prior</p> <p>11 exhibit. A Xeroxing mistake, I apologize.</p> <p>12 BY MR. FRANK:</p> <p>13 Q. Can you please identify MSO-12, if you can?</p> <p>14 A. It appears to be a job application.</p> <p>15 Q. Is this the job application that you filled out when you</p> <p>16 applied to MSO of Kings County for a job?</p> <p>17 A. I honestly cannot remember. I submitted my resume and I</p> <p>18 can see that my resume was added, but I didn't physically</p> <p>19 remember typing. I think it just populated over.</p> <p>20 Q. But in the document that you populated over and</p> <p>21 submitted, to MSO of Brooklyn, is this the information that</p> <p>22 you provided to them other than the handwritten material?</p> <p>23 (Whereupon, the witness reviewed the document.)</p> <p>24 A. Yes. This is my information, yes.</p> <p>25 Q. And did you supply this information to MSO of Brooklyn</p> <p>26 when you were applying for a job?</p>

<p style="text-align: right;">Page 462</p> <p>1 A. I applied for an LPN position. I cannot say it said MSO 2 of Kings County on it. 3 Q. Well, is this a form that you completed? 4 A. I -- it looks familiar, but it was three years ago and I 5 was submitting a lot of forms that day. 6 Q. If you look at Page 5, are those the references that you 7 provided to MSO of Brooklyn? 8 A. Yes, those are my references on my resume. 9 Q. And did you sign this application as indicated on Page 7 10 on or about March 25th, 2013? 11 A. It appears so I did. 12 MR. FRANK: I offer MSO-12 subject to providing missing 13 Page 6 which will be like Page 6 of a later document. 14 HEARING OFFICER SCHAEFER: <small>Any objection?</small> 15 MR. FELSTINER: No, as long as it's provided. 16 HEARING OFFICER SCHAEFER: <small>Is it in evidence?</small> 17 it's completed -- 18 MR. FRANK: Mr. Green will produce it in the morning. 19 (MSO Exhibit 12 received.) 20 MR. FRANK: Can I have this marked as MSO-13? 21 (MSO Exhibit 13 identified.) 22 BY MR. FRANK: 23 Q. Did you receive a copy of MSO-13 on or about May 10th, 24 2013 from MSO of Kings County LLC? 25 A. Yes. 26 Q. And is that your signature on the document?</p>	<p style="text-align: right;">Page 464</p> <p>1 Q. Look at the bottom of the page. Is that your -- 2 HEARING OFFICER SCHAEFER: _____ 3 You're not a hundred percent sure whether you received it or - 4 - 5 THE WITNESS: I'm not a hundred percent sure that stamp 6 was there, honestly. 7 HEARING OFFICER SCHAEFER: <small>The witness says?</small> 8 THE WITNESS: This stamp here. 9 HEARING OFFICER SCHAEFER: <small>Oh. So --</small> 10 THE WITNESS: I remember getting this. 11 HEARING OFFICER SCHAEFER: Okay. 12 THE WITNESS: But I don't -- honestly, I don't remember 13 this, honestly I don't. 14 HEARING OFFICER SCHAEFER: _____ 15 of Kings County? 16 THE WITNESS: Yes, yes. 17 HEARING OFFICER SCHAEFER: <small>That's right, he said</small> 18 remember getting this -- 19 THE WITNESS: Yes. 20 HEARING OFFICER SCHAEFER: <small>--- something like that</small> 21 THE WITNESS: Like this with my papers. 22 BY MR. FRANK: 23 Q. But is that your signature on the bottom of the page? 24 A. Yes. 25 Q. What? 26 A. Yes.</p>
<p style="text-align: right;">Page 463</p> <p>1 A. Yes, it is. 2 MR. FRANK: I offer MSO-13. 3 HEARING OFFICER SCHAEFER: <small>Any objection?</small> 4 MR. FELSTINER: Voir dire? 5 HEARING OFFICER SCHAEFER: Sure. 6 VOIR DIRE EXAMINATION 7 BY MR. FELSTINER: 8 Q. Was all the material on the left-hand side present in the 9 document when you signed it? 10 A. I'm not sure. 11 MR. FELSTINER: Okay. 12 HEARING OFFICER SCHAEFER: <small>Is it in evidence?</small> 13 THE WITNESS: No, that's not my handwriting. 14 HEARING OFFICER SCHAEFER: <small>From the Employer</small> 15 the Employer information box and is that your handwriting? 16 THE WITNESS: No, that's not my handwriting. 17 HEARING OFFICER SCHAEFER: <small>Oh. All right, it's</small> 18 received in evidence. 19 (MSO Exhibit 13 received.) 20 MR. FRANK: Marked as MSO-14, letter dated May 9th, 21 2013. 22 (MSO Exhibit 14 identified.) 23 HEARING OFFICER SCHAEFER: <small>Thank you.</small> 24 BY MR. FRANK: 25 Q. Did you receive MSO-14 on or about May 9th, 2013? 26 A. It looks familiar, but not a hundred percent.</p>	<p style="text-align: right;">Page 465</p> <p>1 Q. Oh. So did you sign this document when you -- on May 2 10th, 2013? 3 A. Yes. 4 Q. Okay. And when you signed it, did it say that you were 5 being offered a position of clinical assistant at MSO of Kings 6 County effective May 20th, 2013? 7 A. I'm sure it did. 8 Q. And did you accept the offer of employment with MSO of 9 Kings County? 10 A. I did not assume I was working at MSO. I accepted a 11 position for an LPN with Methodist Hospital. 12 Q. But this form didn't say that, did it? 13 A. No, the form doesn't say that. 14 Q. It never -- did anybody ever tell you you were working at 15 Methodist Hospital? 16 A. Not in the hospital. 17 Q. Did anybody ever tell you you were employed by Methodist 18 Hospital? 19 A. Yes. 20 Q. Who? 21 A. When I worked there. 22 Q. Who? 23 A. I worked for -- well, let's see. When I got the first 24 call by Erica it was to come interview for a job with 25 Methodist Hospital and that's what I went in there for. As a 26 nurse I wouldn't apply for a job unless it was --</p>

Page 466	Page 468
<p>1 Q. But isn't it a -- 2 HEARING OFFICER SCHAEFER: <small>He's not saying that.</small> 3 for a second and remember that. The inquiry at hand is a 4 factual one. 5 MR. FRANK: I understand. 6 HEARING OFFICER SCHAEFER: <small>-----</small> 7 different -- the employees' understood while relevant isn't 8 necessarily dispositive so I -- okay, just before we get to -- 9 BY MR. FRANK: 10 Q. Now, you were told at orientation that you would not get 11 health benefits through Methodist Hospital, did you so 12 testify? 13 A. I was not Union. 14 Q. What? 15 A. I was not Union. 16 Q. And you knew that employees at the hospital, some of them 17 were in the Union? 18 A. I learned that in orientation. 19 Q. But you understood that when you started you were not 20 going to be in that bargaining unit, correct? 21 A. Yes. 22 Q. And does Exhibit 14 accurately set forth your starting 23 hourly rate? 24 A. Yes. 25 Q. And are you paid bi-weekly? 26 A. Yes.</p>	<p>1 Q. Did you provide this information to the hospital? 2 A. Yes, I did. 3 MR. FRANK: I offer MSO-15. 4 MR. FELSTINER: <small>We're going to make the same objection</small> 5 on this -- 6 HEARING OFFICER SCHAEFER: <small>Okay.</small> 7 MR. FELSTINER: -- as MSO-6. 8 HEARING OFFICER SCHAEFER: <small>Okay.</small> 9 MR. FELSTINER: It's an internal document. 10 MR. FRANK: I think the testimony on this document was 11 different than on that document. 12 HEARING OFFICER SCHAEFER: <small>-----</small> 13 how? 14 MR. FRANK: Because I think the witness said she 15 supplied this information. 16 HEARING OFFICER SCHAEFER: <small>-----</small> 17 It's -- I'm going to reserve my judgment. 18 MR. FRANK: <small>Okay. I'd like this marked as MSO-16. I'll</small> 19 <small>need a second page of this one tomorrow.</small> 20 <small>(MSO Exhibit 16 identified.)</small> 21 BY MR. FRANK: 22 Q. Can you identify MSO-16? 23 A. Yes, I signed that. 24 Q. Okay. And did you submit documentation to MSO of 25 Brooklyn to verify that you were entitled to employment? 26 A. Yes.</p>
Page 467	Page 469
<p>1 Q. And is your regular payday Thursday? 2 A. Yes. 3 MR. FRANK: I offer Exhibit MSO-14. 4 HEARING OFFICER SCHAEFER: <small>Any objection?</small> 5 MR. FELSTINER: No. 6 HEARING OFFICER SCHAEFER: <small>He's not saying that.</small> 7 evidence. 8 (MSO Exhibit 14 received.) 9 MR. FRANK: MSO-15. 10 (MSO Exhibit 15 identified.) 11 HEARING OFFICER SCHAEFER: <small>That's not the issue.</small> 12 the pass and just say I'm probably going to make the same 13 ruling, holding this as I did with the other one, but 14 reserving admission. 15 MR. FRANK: Can we go off the record? 16 HEARING OFFICER SCHAEFER: <small>Sure.</small> 17 (Discussion off the record.) 18 19 HEARING OFFICER SCHAEFER: <small>Back on the record.</small> 20 BY MR. FRANK: 21 Q. I'm showing you MSO-15. Did you provide this information 22 to the hospital when you were hired? 23 A. Yes, that's my information. 24 Q. And did you fill out this form and provide it to the 25 hospital? 26 A. I did not fill out this form.</p>	<p>1 MR. FRANK: I offer MSO-16 subject to we'll provide the 2 second page. 3 HEARING OFFICER SCHAEFER: <small>-----</small> 4 until I see a second page. 5 MR. FRANK: MSO-17. 6 (MSO Exhibit 17 identified.) 7 BY MR. FRANK: 8 Q. Did you fill out a withholding statement, Form W-4 for 9 MSO of Kings County? 10 A. Yes. 11 Q. Is that your signature on the bottom of the document? 12 A. That's my signature. 13 MR. FRANK: I offer MSO-17. 14 MR. FELSTINER: No objection. 15 HEARING OFFICER SCHAEFER: <small>-----</small> 16 evidence. 17 (MSO Exhibit 17 received.) 18 HEARING OFFICER SCHAEFER: <small>MSO-18.</small> 19 (MSO Exhibit 18 identified.) 20 BY MR. FRANK: 21 Q. I show you what the Reporter is marking as MSO Exhibit 22 18. Was this your certificate on your propane allowance for 23 New York State? 24 A. No. 25 Q. Is that your signature on the document? 26 A. That's my signature.</p>

<p style="text-align: right;">Page 470</p> <p>1 Q. And did you file that with MSO of Kings County when you 2 started employment? 3 A. I had to sign the paper. 4 MR. FRANK: I offer MSO-18. 5 HEARING OFFICER SCHAEFER: <small>Any objection?</small> 6 MR. FELSTINER: No. 7 HEARING OFFICER SCHAEFER: <small>MSO 18 is received.</small> 8 (MSO Exhibit 18 received.) 9 BY MR. FRANK: 10 Q. Karen Chan is the office manager? 11 A. Yes. Well, Director. 12 Q. If you want to take a day off do you need Ms. Chan's 13 approval? 14 A. Yes. We all go through the same process. 15 Q. What is that process? 16 A. We fill out the paper and we give it to Karen. 17 Q. What kind of paper do you fill out? 18 A. A paper that has a vacation request. 19 Q. And what does Karen do, if you know, with the paper when 20 you give it? 21 A. Approve it. 22 Q. What if you're sick, who approves sick leave? 23 A. I call the office. 24 Q. Who do you call? 25 A. I call the Wound Care line. 26 Q. Okay. And who do you get approval for a sick day from?</p>	<p style="text-align: right;">Page 472</p> <p>1 A. We are required. We wear uniforms. 2 Q. Or scrubs? 3 A. Scrubs. 4 HEARING OFFICER SCHAEFER: _____ 5 scrubs? 6 THE WITNESS: The nurses wear scrubs, yes. 7 HEARING OFFICER SCHAEFER: <small>Yes, to scrubs.</small> 8 what you do, right, which is wear scrubs, but then -- and you 9 all wear the same color scrubs. 10 THE WITNESS: Yes. 11 HEARING OFFICER SCHAEFER: _____ 12 you required to do that or do you just choose to do that? 13 THE WITNESS: We're required to wear scrubs. 14 HEARING OFFICER SCHAEFER: <small>Yes, to scrubs.</small> 15 wear a specific type of scrub? 16 THE WITNESS: No. 17 HEARING OFFICER SCHAEFER: Okay. 18 BY MR. FRANK: 19 Q. And is it a fact that there's no indication at New York 20 Methodist Hospital on those scrubs? 21 A. No. 22 Q. Now, the underarm jacket that you received is it in fact 23 from Dr. Vesey? I think that has no connection or reference 24 to New York Methodist Hospital on the garment? 25 A. I don't know what name you just used. I do not know. 26 Q. Well, who is the physician who gave you the gift?</p>
<p style="text-align: right;">Page 471</p> <p>1 A. I call and leave a message, but I'll call Karen on her 2 cell phone. 3 Q. And do all the employees at One Prospect Park West do the 4 same thing? 5 A. I would assume so. 6 Q. Has Karen told you that the policy for getting approval 7 for a vacation request or sick leave is to call her for that 8 approval? 9 A. Maybe the first day. 10 Q. What did she tell you on the first day? 11 A. You call me if you're going to be ill. 12 Q. Anything else? 13 A. Leave a message. 14 Q. Have you ever been disciplined? 15 A. I got a warning for punching out 801 when I first 16 started. 17 Q. Who gave you that warning? 18 A. Karen. 19 Q. What was the warning for? 20 A. Punching in an 801. 21 HEARING OFFICER SCHAEFER: _____ 22 THE WITNESS: It's verbal. 23 HEARING OFFICER SCHAEFER: <small>All right.</small> 24 BY MR. FRANK: 25 Q. Now, am I correct that you're not required to wear 26 uniforms at work?</p>	<p style="text-align: right;">Page 473</p> <p>1 A. Dr. Vaccari. 2 Q. Dr. Vaccari. Thank you, my mistake. 3 On that jacket is there any indication of New York 4 Methodist Hospital? 5 A. No. 6 Q. Is there any employment identification on it? 7 A. No, it was a Christmas gift. 8 Q. Oh, from the doctor? 9 A. From the Emergency Room Dr. Bove bought the jackets for 10 the nurses and the Emergency Room and we were extended the 11 gift of four nurses at the Wound Care Center. 12 Q. Do you have any direct contact with the employees who 13 sterilize the scissors and other equipment? 14 A. I do not personally. 15 Q. Now, does the office receive mail -- 16 A. Yes. 17 Q. -- from other than New York Methodist Hospital? 18 A. Yes. 19 Q. And does the office receive supplies from vendors? 20 A. Yes. 21 Q. What vendors send supplies to the One Prospect -- 22 A. Some non-prescription medications come from vendors, 23 wound treatment as well as grafts. They come from postage. 24 Q. Okay. What vendors send graft material to the One 25 Prospect Park West Office? 26 A. Graphics -- I don't know who does that.</p>

<p style="text-align: right;">Page 474</p> <p>1 HEARING OFFICER SCHAEFER: <small>Is that the company?</small> 2 Graphics? 3 THE WITNESS: Graphics is the name of the craft. I 4 don't know who. I just know that the box gets delivered. 5 It's in dry ice. It has to be used that day. 6 HEARING OFFICER SCHAEFER: <small>Is that correct?</small> 7 ahead, sorry. 8 BY MR. FRANK: 9 Q. Would it be accurate to say that the office at One 10 Prospect Park West receives numerous packages every day from 11 vendors other than New York Methodist Hospital? 12 A. Every day numerous? I would not say. 13 Q. What about every week? 14 A. Every week. 15 Q. How many different packages would you say the office 16 receives every week of supplies from other than New York 17 Methodist Hospital? 18 A. I don't -- I don't count. 19 Q. And are those delivered by the Post Office or UPS or 20 FedEx? 21 A. Yes. 22 Q. Now, the courier that you referenced who comes to New 23 York Methodist Hospital, is that a once a day delivery? 24 A. Yes. 25 Q. Now, am I correct that your job is not to sit at the 26 front desk?</p>	<p style="text-align: right;">Page 476</p> <p>1 HEARING OFFICER SCHAEFER: Sure. 2 (Whereupon, there was a brief pause off the record.) 3 HEARING OFFICER SCHAEFER: <small>Is that correct?</small> 4 BY MR. FRANK: 5 Q. You made reference to Indeed. 6 A. Excuse me? 7 Q. The application you filed was to Indeed.com? 8 A. To Indeed.com. 9 Q. What is Indeed.com? 10 A. It's a job searching engine. You could put your resume 11 up there and they'll send you jobs in your job description. 12 Q. Okay. There's no particular connection to the health 13 care industry or MSO or to New York Methodist, is there? 14 A. No. 15 Q. And did they refer you to the website? What did 16 Indeed.com refer you to? 17 A. It would bring up the jobs that are available maybe 18 through New York Methodist Hospital, Maimonides, whatever it 19 is in my qualifications and they will bring it to you. And 20 usually you would click on it and then I would just throw my 21 resume on there to put in the box. 22 Q. And your first contact with MSO of Kings County is when 23 you got a call having, using your words, thrown your resume 24 in? 25 A. I got a call from Erica in March for an interview. 26 Q. Did you also interview with Karen Chan?</p>
<p style="text-align: right;">Page 475</p> <p>1 A. No. 2 Q. And would it be accurate to say that generally you don't 3 have any interaction with the person who's making the delivery 4 of the package? 5 A. No. If they need a signature I may sign for it. 6 Q. Okay, but normally would it be signed by the person 7 sitting at the desk? 8 A. Certain items, yes. 9 Q. And who is usually at the desk to sign for those items? 10 A. Carmen, Liz, or Demarys. 11 Q. Since the orientation have you had any training in the 12 hospital building on 6th -- on 6th Street, New York Methodist 13 Hospital building? 14 A. No. 15 Q. And other than the one instance where you dropped off a 16 billing item is it accurate that you have not been working at 17 the New York Methodist Hospital building on 6th Street? 18 A. I did not drop any billing items off. 19 Q. Have you dropped anything off at New York Methodist 20 Hospital? 21 A. No, I have not. 22 Q. You have not. My mistake, I think I confused from the 23 last witness. So you have not had any work contact over at 24 New York Methodist Hospital? 25 A. Over the phone, yes. 26 MR. FRANK: May I have a couple of minutes, please?</p>	<p style="text-align: right;">Page 477</p> <p>1 A. Yes, I did. 2 Q. And did you interview with Karen Chan before you were 3 hired? 4 A. I did an interview with Karen Chan. 5 Q. Now, did you also -- after you filed the form with 6 Indeed.com did you then complete the MSO-12 with Kings County 7 -- MSO of Kings Count application after that? 8 A. I clicked on the -- whatever I clicked on and I just 9 populated it. And so I might have clicked it, I might have 10 not, I am not sure. 11 HEARING OFFICER SCHAEFER: <small>Is that correct?</small> 12 Indeed gives you a list of job openings, correct? 13 THE WITNESS: I'm an LPN. 14 HEARING OFFICER SCHAEFER: <small>Right.</small> 15 THE WITNESS: So I put all of the LPN positions 16 available. 17 HEARING OFFICER SCHAEFER: <small>Okay. So what did</small> 18 particular opening do you recall what the title said? 19 THE WITNESS: I can't. 20 HEARING OFFICER SCHAEFER: <small>Thank you very much.</small> 21 And then when you clicked on the link, were you still on 22 Indeed's website when you saw the form or did it -- did it 23 link you, did it direct you to the New York Methodist website? 24 THE WITNESS: I honestly can --- I do not remember. 25 HEARING OFFICER SCHAEFER: Okay. 26 BY MR. FRANK:</p>

<p style="text-align: right;">Page 478</p> <p>1 Q. But did you specifically apply for a position in wound 2 care? 3 A. I -- yes, I have wound care experience. 4 Q. And did you specifically apply to the MSO of Kings County 5 facility? 6 A. I do not recall that. 7 Q. Did you know you were going to be working in One Prospect 8 Park West? 9 A. Not till after the interview and the job offering. 10 Q. Okay, but after the interview and the job offer -- 11 A. Yes. 12 Q. -- did you know you would be working at One Prospect Park 13 West? 14 A. Yes. 15 Q. And did you also know that you would not be working in 16 the hospital, in the hospital Wound Care Center? 17 A. Yes, there is no wound care. 18 Q. I'm sorry? 19 A. There's no Wound Care Center in the hospital. 20 Q. Oh, the only Wound Care Center is at One Prospect Park 21 West? 22 A. Yes. 23 Q. Now, does Cerner provide training for use in the Cerner 24 System? 25 A. The IT Department provides training. 26 Q. Isn't it a fact that it's provided by Cerner technicians?</p>	<p style="text-align: right;">Page 480</p> <p>1 insurance or we can have United Health Care health insurance 2 and I think there's another one, but that one's too expensive. 3 Q. So you have a choice of -- 4 A. We have a choice. 5 Q. And who explained those choices to you? 6 A. The first time was on line. I went through the Intranet 7 to register and then after that, once before a health employee 8 from the Human Resources benefits person came over to explain 9 it to us. 10 Q. Now, how many rooms are in Suite B at One Prospect Park 11 West? 12 A. Patient rooms? 13 Q. Yes. 14 A. We have five patient rooms. 15 Q. And there's a reception area when you walk in? 16 A. Yes. 17 Q. And how many doctor's offices are there? 18 A. There's one office for doctors. 19 Q. And do you have an office? 20 A. Nope. 21 Q. And so is there a room within Suite B where you put your 22 things when you check in? 23 A. I have a locker. 24 Q. And where is your locker located? 25 A. In front of the bathroom. 26 Q. And does the other LPN have a locker in that area?</p>
<p style="text-align: right;">Page 479</p> <p>1 A. I don't -- I went in one time to do an I -- with IT once 2 for Cerner. 3 Q. And your ID card, does it have yellow stripes on it? 4 A. Yes, it does. 5 Q. When you had your CPR renewed was that training done at a 6 location other than in New York Methodist Hospital? 7 A. It was in the Wesley House. 8 Q. That's not part of the hospital building, is it? 9 A. It's across the street. 10 Q. Separate building? 11 A. Yes. 12 MR. FELSTINER: Sorry, I couldn't hear because of the 13 door. 14 HEARING OFFICER SCHAEFER: _____ 15 building. 16 MR. FRANK: I didn't hear the answer. 17 THE WITNESS: I said yes. 18 BY MR. FRANK: 19 Q. When you had your annual physical was that in a building 20 separate from the hospital? 21 A. It's in the Wesley House. 22 Q. Is that a separate building from the hospital? 23 A. It's across the street. 24 Q. What type of health insurance do you receive as an MSO 25 employee? 26 A. We -- we can have New York Methodist Hospital health</p>	<p style="text-align: right;">Page 481</p> <p>1 A. Yes, we all have a locker there. 2 Q. All the employees in Suite B -- 3 A. B. 4 Q. -- of One Prospect Park West have a locker? 5 A. Yes. 6 Q. And are all the lockers together? 7 A. Yes. 8 Q. And where do you eat lunch? 9 A. Outside. We have a room with a microwave and a 10 refrigerator. 11 Q. And do hospital employees, New York Methodist Hospital 12 employees eat lunch there? 13 A. The radiologists do, yes. 14 Q. Anybody else? 15 A. No. 16 Q. When you do referrals for home health care what does that 17 entail? 18 A. Usually like visiting nurses services. A patient may 19 need wound dressing changes during the week. They can only 20 present to our office once a week so they'll either get a 21 nurse out to them so they can change their dressing. 22 Q. Did I correctly understand that Karen has to approve 23 requests for Pharmacy supplies? 24 A. Karen goes over the list after we see what's available, 25 but we work very closely together. 26 Q. But she's the one who approves the list before it's faxed</p>

<p style="text-align: right;">Page 482</p> <p>1 over?</p> <p>2 A. Yes, unless she's on vacation.</p> <p>3 Q. What's involved in doing a wrap for a patient?</p> <p>4 A. Like a multi-layer wrap?</p> <p>5 Q. Yes.</p> <p>6 A. After caring for the wound, dressing it with the proper</p> <p>7 medication, a wrap is an eight figure technique. There's</p> <p>8 multiple layers that's why it's called multi-layer so we'll</p> <p>9 apply it from source of need. You can have it on multi-</p> <p>10 layers, you can have it on one.</p> <p>11 Q. Is it analogous to putting on an Ace bandage wrap around?</p> <p>12 A. I put Ace bandages on. It's more work than an Ace</p> <p>13 bandage.</p> <p>14 Q. And can you just -- can you describe how it's more work?</p> <p>15 HEARING OFFICER SCHAEFER: <small>Not in evidence</small></p> <p>16 MR. FRANK: Trying to -- job description.</p> <p>17 HEARING OFFICER SCHAEFER: <small>Okay. Go ahead.</small></p> <p>18 BY MR. FRANK:</p> <p>19 Q. What medications do you apply?</p> <p>20 A. Medahoney, Santo, Hydrogel Bactroban, Bacitracin,</p> <p>21 Iordizor, Excul.</p> <p>22 Q. Are those topical applications?</p> <p>23 A. Yes.</p> <p>24 Q. Do you do any scraping of skin or anything that's</p> <p>25 invasive to the patient?</p> <p>26 A. No, not my job.</p>	<p style="text-align: right;">Page 484</p> <p>1 Metronic, but it lists through Cerner.</p> <p>2 Q. If a skin graft is performed in the Wound Care Center is</p> <p>3 that recorded in the Wound Expert System?</p> <p>4 A. Yes.</p> <p>5 Q. And when you do a time out with the patient, is that</p> <p>6 recorded in the Wound Expert System?</p> <p>7 A. I believe they scan into Wound Expert. That is still a</p> <p>8 consent and a time out quote together.</p> <p>9 Q. In the Wound Expert System?</p> <p>10 A. It's a form. Everyone has the same form. It's the</p> <p>11 consent for a surgical procedure as well as a time out form.</p> <p>12 Q. And as the LPN you review those forms before the doctor</p> <p>13 proceeds with the procedure?</p> <p>14 A. Yes.</p> <p>15 MR. FRANK: I have no further questions.</p> <p>16 Okay, I have one more question.</p> <p>17 BY MR. FRANK:</p> <p>18 Q. You said you were -- in terms of the equipment you use</p> <p>19 that you use cue tips. What are those for?</p> <p>20 A. Measuring depth of a wound, probe to -- touch muscle,</p> <p>21 undermining of skin.</p> <p>22 Q. And where do you record that information?</p> <p>23 A. I put it into Wound Expert.</p> <p>24 MR. FRANK: No further questions.</p> <p>25 HEARING OFFICER SCHAEFER: <small>Go ahead.</small></p> <p>26 MR. FELSTINER: Yeah, I have several.</p>
<p style="text-align: right;">Page 483</p> <p>1 Q. That would be a registered nurse or a physician?</p> <p>2 A. That would be the physician.</p> <p>3 Q. That would be the physician. Now, I believe you said</p> <p>4 that the Wound Expert Information System was a closed system?</p> <p>5 A. I assume.</p> <p>6 Q. And that's for the wound care. What information goes</p> <p>7 into that system that it's kept into that system?</p> <p>8 A. Wound information, that's what we use to chart them,</p> <p>9 Wound Expert. So all their pertinent information is on Wound</p> <p>10 Expert for purposes of wounds.</p> <p>11 Q. So what's -- would it be accurate to say that what's done</p> <p>12 in the Wound Care Center is put into the Eagle System?</p> <p>13 A. I do not work with the Eagle.</p> <p>14 Q. So the Wound Expert is separate from the Eagle. It's a</p> <p>15 third system?</p> <p>16 A. I -- they use Eagle to get authorization. I do not know</p> <p>17 the gist of that.</p> <p>18 Q. All right. So am I correct, you don't use Eagle then?</p> <p>19 A. I do not, no.</p> <p>20 Q. You use just the Wound Care Expert.</p> <p>21 A. And Cerner.</p> <p>22 Q. And Cerner. And when the doctor gives an order at One</p> <p>23 Prospect Park West does that go into the Wound Expert System?</p> <p>24 A. Yes, unless there's a prescription.</p> <p>25 Q. And prescriptions go into what system?</p> <p>26 A. Through Cerner. Well, now they upgraded, it's in</p>	<p style="text-align: right;">Page 485</p> <p>1 REDIRECT EXAMINATION</p> <p>2 BY MR. FELSTINER:</p> <p>3 Q. All right. The fleece that you mentioned, do you ever</p> <p>4 wear that while working?</p> <p>5 A. Yes, I leave it in my locker.</p> <p>6 Q. Would you take a look at MSO-12 that's in front of you?</p> <p>7 Do you have that?</p> <p>8 A. Yes.</p> <p>9 Q. Do you see at the top right corner this notation \$22?</p> <p>10 A. Um-hum.</p> <p>11 Q. The handwritten addition. Did you make that notation?</p> <p>12 A. No, I didn't make that.</p> <p>13 Q. On Page 3 --</p> <p>14 A. Okay.</p> <p>15 Q. -- did you make the handwritten notations there?</p> <p>16 A. No.</p> <p>17 Q. Can you take a look at MSO-14 -- strike that.</p> <p>18 Can you look at MSO-16?</p> <p>19 A. Okay.</p> <p>20 Q. This is your signature?</p> <p>21 A. Yes, it is.</p> <p>22 Q. To whom did you submit this form?</p> <p>23 A. During the day of orientation. There was -- when I got</p> <p>24 interviewed, I had to go on to the Intranet to fill out</p> <p>25 employee packet materials so this was a part of the packet.</p> <p>26 So I filled out these forms on line and then I printed them</p>

<p style="text-align: right;">Page 486</p> <p>1 and signed them all. 2 Q. And where did you send them? 3 A. I brought them in with me to orientation. 4 Q. Who did you give them to? 5 A. I'm not sure if it was Erica or -- I don't remember if 6 she was in the orientation room. 7 HEARING OFFICER SCHAEFER: 8 gave it to? 9 THE WITNESS: No, I don't. 10 HEARING OFFICER SCHAEFER: Okay. 11 BY MR. FELSTINER: 12 Q. Can you take a look at MSO-17? I'm sorry, take your 13 time. 14 A. Oh, okay. 15 Q. Is this another document that you printed? Is this in 16 the employee packet that you referred to? 17 A. Yes. 18 Q. Did you fill this one out on line? 19 A. Yes. 20 Q. Was the stamp at the bottom next to your signature on the 21 form when you filled it out? 22 A. No. It's on top of my signature. 23 Q. Can you take a look at MSO-18? 24 A. Okay. 25 Q. Was this one filled out on line? 26 A. Yes.</p>	<p style="text-align: right;">Page 488</p> <p>1 patients and I might sign for those. 2 Q. When you interviewed with Karen Chan was anybody else 3 present in that interview? 4 A. Dr. Vaccari was there. 5 Q. Did he participate in the interview -- 6 A. Yes. 7 Q. -- conversation? 8 And what was his position at that time? 9 A. He was the Medical Director. 10 Q. You referred to a wound care nurse at the hospital who 11 approves the graft. Who is that? 12 A. I don't know their name. 13 Q. What department do they work in? 14 A. There's wound care nurses in the hospital. I don't -- it 15 would be wound care, but they don't do wound care. I don't -- 16 I'm not really familiar with their job exactly. 17 Q. You testified your ID card has yellow stripes? 18 A. Yes. 19 Q. Does it say New York Methodist on it? 20 A. Yes. 21 Q. Have you had the same ID card since you started? 22 A. Yes. 23 Q. You testified that somebody came to explain health 24 benefits? 25 A. There has been someone that comes in for health benefits, 26 but I don't remember her name.</p>
<p style="text-align: right;">Page 487</p> <p>1 Q. And that's your signature? 2 A. Yes, it is. 3 Q. Do you see under Employers only further down the page, 4 the middle of the page, there are a couple of handwritten 5 sections? Is that your handwriting? 6 A. No, it's not. 7 Q. Was this stamp here under Employer's name and address 8 present when you filled it out? 9 A. I'm not sure. 10 Q. Who told you that you had to wear scrubs every day? 11 A. I don't remember because being a nurse I wear scrubs all 12 the time. 13 Q. You testified that you have work contacts over the phone 14 with people from the hospital. What kind of contact is that? 15 A. I will speak to the laboratory. If they have critical 16 values they have to report it to a nurse so I would receive 17 that phone call if another nurse is not available. 18 We speak to the Vascular Lab. It's mostly Vascular and 19 laboratory. There has been a time when we spoke to a 20 cardiology when they were doing vascular studies in the 21 clinic, but they no longer come to our clinic for that. 22 Q. You mentioned that you signed -- you don't sign for every 23 package. Which packages do you sign for? 24 A. If I -- patients, sometimes when they come in I have to 25 sign for them to be released from the ambulance. Also, there 26 might be insoles, they get delivered a lot for Dr. Soave's</p>	<p style="text-align: right;">Page 489</p> <p>1 Q. Have you met Joanne Kennedy? 2 A. I've met her once. 3 Q. Is Joanne Kennedy the person that came in for benefits -- 4 to explain benefits? 5 A. No. 6 Q. Have you met Erica Ostrovsky? 7 A. I met her during the interview. 8 Q. Is she the person who came in to explain benefits? 9 A. I -- no. 10 Q. You testified that the radiologist eats lunch with you? 11 A. Yes. 12 Q. Who is the radiologist? 13 A. There's two, Tonia Henriquez and Steve Aceto. 14 Q. Where do they work? 15 A. They work in Suite B. 16 Q. Do they perform the x-rays? 17 A. Yes. 18 Q. You said you eat outside. Where is that? 19 A. I might go across the street to the park. 20 Q. Where is the room with the microwave and the -- 21 A. It's in Suite B. It's our kitchenette. 22 Q. Who approves the supply list when Karen's on vacation? 23 A. I know how to work it. I have sent it over myself. 24 MR. FELSTINER: One minute. 25 (Whereupon, there was a brief pause.) 26 MR. FELSTINER: I think that's it.</p>

<p style="text-align: right;">Page 490</p> <p>1 HEARING OFFICER SCHAEFER: <small>Mr. Frank?</small></p> <p>2 MR. FRANK: I have no questions.</p> <p>3 HEARING OFFICER SCHAEFER: <small>Thank you and am.</small></p> <p>4 THE WITNESS: Thank you.</p> <p>5 (Witness excused.)</p> <p>6 HEARING OFFICER SCHAEFER: <small>all right, see them go.</small></p> <p>7 more witnesses for today?</p> <p>8 MS. WILCOX: We have no further witnesses today, but we</p> <p>9 will have another witness tomorrow.</p> <p>10 HEARING OFFICER SCHAEFER: <small>Is there a person that?</small></p> <p>11 subpoenaed or --</p> <p>12 MS. WILCOX: Yes.</p> <p>13 HEARING OFFICER SCHAEFER: <small>Okay, then you go.</small></p> <p>14 discussed scheduling or -- who's the person? Let's --</p> <p>15 MS. WILCOX: Yes, it's going to be one of the x-ray</p> <p>16 technicians who works at --</p> <p>17 HEARING OFFICER SCHAEFER: <small>Oh okay, all right, so.</small></p> <p>18 we're going to have an x-ray tech testify tomorrow. Are you</p> <p>19 calling any of the other subpoenaed witnesses to testify</p> <p>20 tomorrow in terms of the Employer --</p> <p>21 MS. WILCOX: Yeah. I mean based upon our discussions on</p> <p>22 Thursday, which I guess things changed, but our intention was</p> <p>23 that you would have your management witnesses available</p> <p>24 tomorrow.</p> <p>25 MR. FRANK: All right, I'll do that.</p> <p>26 HEARING OFFICER SCHAEFER: <small>They'll be available.</small></p>	<p style="text-align: right;">Page 492</p> <p>1 MS. WILCOX: And then we have other --</p> <p>2 MR. FRANK: I will have somebody here and other people</p> <p>3 will be available on call as we go through this.</p> <p>4 HEARING OFFICER SCHAEFER: <small>all right, see them go.</small></p> <p>5 all on the same page. I'd like to get done by Wednesday,</p> <p>6 that's all. I'm just trying to like stack them up so it's</p> <p>7 possible if -- at least for this part of what we're doing, we</p> <p>8 can get it done by Wednesday.</p> <p>9 Okay. Tomorrow -- so let's go off the record.</p> <p>10 (Whereupon, at 4:38 p.m., the hearing in the</p> <p>11 above-entitled matter was recessed, to reconvene</p> <p>12 on Tuesday, April 12, 2016, at 9:30 a.m., in</p> <p>13 the same place.)</p> <p>14</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>
<p style="text-align: right;">Page 491</p> <p>1 tomorrow? Okay, excellent. All right, thank you.</p> <p>2 Okay. We will --</p> <p>3 MR. FRANK: Can we have an identification --</p> <p>4 HEARING OFFICER SCHAEFER: Sure.</p> <p>5 MR. FRANK: Since x-ray tech is not on the list, to not</p> <p>6 delay the process if that person could be identified we could</p> <p>7 prepare for it. I know there's no obligation.</p> <p>8 HEARING OFFICER SCHAEFER: <small>Yes, Mr. Wilcox, I'm.</small></p> <p>9 to you. I can't force you to identify the person. It might</p> <p>10 make it go faster.</p> <p>11 MS. WILCOX: I mean I think they should know who's</p> <p>12 working as --</p> <p>13 HEARING OFFICER SCHAEFER: <small>Good and only the way you.</small></p> <p>14 is going to testify?</p> <p>15 MS. WILCOX: It shows the interchange between a hospital</p> <p>16 employee who's represented by 1199 who works at One Prospect</p> <p>17 Park West.</p> <p>18 HEARING OFFICER SCHAEFER: <small>Okay, see if that works.</small></p> <p>19 HEARING OFFICER SCHAEFER: <small>See him go, then you go.</small></p> <p>20 this way. How long is that going to -- is that going to be an</p> <p>21 extensive witness because the only thing I'm concerned about</p> <p>22 is if we do have --</p> <p>23 MS. WILCOX: Our direct examination would not be long,</p> <p>24 no.</p> <p>25 HEARING OFFICER SCHAEFER: <small>All right.</small></p> <p>26 MR. FRANK: I will have somebody --</p>	<p style="text-align: right;">Page 493</p> <p>This is to certify that the attached proceedings done before the NATIONAL LABOR RELATIONS BOARD REGION 29:</p> <p>In the matter: NEW YORK METHODIST (MSO) OF KINGS COUNTY, LLC, Employer, And 1199 SEIU, UNITED HEALTHCARE WORKERS, INC., Petitioner.</p> <p>Case No.: 29-RC-172398 Date: April 11, 2015 Place: Brooklyn, New York</p> <p>were held as therein appears, and that this is the original transcript thereof for the files of the Board.</p> <p style="text-align: right;">_____ PETE HOLAND, Official Reporter</p> <p style="text-align: right;">BURKE COURT REPORTING, LLC 1044 Route 23 North, Suite 316 Wayne, New Jersey 07470 (973) 692-0660</p>

—	18 (3) 469:19,22;470:8	382:1,16 4:38 (1) 492:10	9thh (1) 359:20	358:18 admitting (2) 381:20;399:11
— (4) 392:25;406:16; 443:16;477:24	18's (1) 470:7	4's (1) 410:13	A	advance (1) 441:7
\$	2	435 (1) 356:7	able (1) 409:15	advantage (1) 376:19
\$22 (1) 485:9	2 (7) 357:21;358:13,17, 19;381:17;416:23; 448:14	5	above-entitled (1) 492:11	adversarial (1) 405:18
\$9,000 (1) 377:14	2:00 (2) 413:17;415:4	5 (4) 397:25;401:25; 403:5;462:6	absence (1) 389:14	advise (1) 405:17
=	2:23 (1) 416:2	5/14 (1) 358:6	absent (2) 389:12;417:13	affiliated (1) 420:7
=== (1) 368:13	2:38 (1) 428:8	5/7/14 (1) 358:1	accept (2) 400:20;465:8	afield (1) 413:20
1	2:51 (1) 428:8	506 (1) 356:24	accepted (2) 401:6;465:10	again (9) 365:22;384:26; 403:13;408:9; 416:19,24;417:16; 445:3;450:5
1 (7) 357:12,13,14; 358:6,12,17,19	2005 (1) 398:2	56 (1) 356:25	access (8) 372:26;373:8; 374:14;376:17; 407:24;409:16; 448:17;457:11	agencies (1) 433:21
1:15 (1) 413:13	2012 (1) 398:2	6	accessed (3) 374:16,18;448:15	agency (2) 407:17;433:17
1:17 (1) 415:4	2013 (10) 429:12;431:10; 456:14,16;462:10,24; 463:21,25;465:2,6	6 (5) 403:7;460:26; 461:9;462:13,13	accrue (1) 433:3	ago (2) 452:21;462:4
10 (1) 411:24	2014 (10) 355:13;383:14,14, 16;399:17,21; 401:24;411:8,9; 418:14	6th (9) 356:21,25,26; 383:10;419:20; 457:24;475:12,12,17	accurate (7) 382:17;405:7; 420:11;474:9;475:2, 16;483:11	ahead (9) 362:1;379:13,18; 383:6;454:7;455:7; 474:7;482:17;484:25
10th (3) 460:13;462:23; 465:2	2016 (3) 354:6;460:13; 492:12	6thh (1) 456:23	accurately (2) 396:23;466:22	Alaina (1) 450:2
11 (2) 460:14,22	20th (1) 465:6	7	Ace (3) 482:11,12,12	Alex (1) 433:12
11:52 (1) 354:1	24/7 (1) 382:18	7 (5) 398:4;406:20; 408:13;412:8;462:9	Aceto (1) 489:13	allow (2) 367:3;368:15
1199 (4) 380:14;414:21,23; 491:16	24th (1) 400:20	8	acknowledgment (2) 402:2,4	allowance (1) 469:22
11thh (1) 354:6	25th (1) 462:10	8 (4) 397:11;398:4; 408:15;410:1	Across (5) 359:7;432:1;479:9, 23;489:19	allowed (3) 409:15;458:9,12
12 (3) 460:25;462:19; 492:12	27th (3) 400:22,24;411:9	8:00 (2) 382:1,16	activities (1) 457:23	alone (1) 439:2
13 (2) 462:21;463:19	29-RC-172398 (2) 354:5,5	801 (2) 471:15,20	actual (1) 406:12	along (1) 442:20
13's (1) 463:17	3	8th (2) 399:16,21	actually (6) 360:17;370:12; 414:23;437:17; 455:16;456:12	altogether (2) 360:21,22
14 (3) 463:22;466:22; 467:8	3 (20) 380:7,8,20;381:17, 20,21;395:4,5,7,8,16, 17,19;397:4,11; 399:14;454:15,17,18; 485:13	9	added (2) 411:13;461:18	always (4) 382:2;435:24; 440:25;454:4
15 (2) 434:23;467:10	4	9 (3) 410:3;411:22; 412:8	addition (1) 485:11	ambulance (1) 487:25
15th (3) 401:24;407:21; 411:8	4 (4) 381:17;399:18; 401:22;434:24	9:30 (1) 492:12	address (6) 374:24,26;388:6; 397:9;403:14;487:7	Ambulatory (2) 452:23,25
16 (1) 468:20	4:00 (2)	9th (10) 356:6,7;359:1; 430:2,16,21;450:6,7; 463:20,25	addresses (1) 399:8	analogous (1) 482:11
17 (2) 469:6,17			administer (2) 444:8,11	A-n-g (1) 356:16
17th (1) 398:8			admission (2) 405:23;467:14	ankle (4) 368:19,21;379:21; 413:20
			admitted (1)	ankles (1) 368:9
				annual (1)

479:19 answered (2) 392:16;425:22 Apart (1) 370:8 apologies (1) 460:12 apologize (2) 400:24;461:11 appear (1) 405:2 appeared (1) 456:5 appears (5) 399:7;460:15; 461:3,14;462:11 application (18) 355:14;357:8; 377:1;395:20,23; 396:8,24;403:19; 407:6;412:4;448:21; 449:26;460:23; 461:14,15;462:9; 476:7;477:7 applications (1) 482:22 applied (5) 405:18;406:8; 436:4;461:16;462:1 applies (1) 440:3 appligrant (1) 446:1 apply (13) 376:26;396:10; 398:8;429:13; 432:13;433:9;436:2; 445:16;465:26; 478:1,4;482:9,19 applying (2) 397:23;461:26 appointment (5) 361:3,4;391:23; 423:10,14 appointments (3) 422:5,8;423:11 approval (7) 445:13,19,20; 470:13,26;471:6,8 Approve (2) 470:21;481:22 approved (3) 441:7;445:15,17 approves (5) 445:21;470:22; 481:26;488:11; 489:22 April (3) 354:6;398:8; 492:12 area (3) 367:9;480:15,26 aren't (2)	364:15;459:6 argument (2) 364:17,18 armor (2) 452:21;453:14 around (2) 439:24;482:11 arrive (1) 372:4 arteries (1) 441:23 article (2) 456:2,5 assess (5) 433:15;435:11,12, 19;444:26 assessed (1) 435:7 assessment (1) 436:13 assigned (6) 362:15,23;382:4; 383:16;456:22,24 assist (4) 374:2;433:16; 440:20;444:25 assistance (3) 440:22;441:3,19 assistant (5) 388:25;400:19; 401:8;429:7;465:5 assistants (1) 388:24 assisted (1) 373:26 Associates (1) 407:15 assume (6) 412:18;419:2; 461:10;465:10; 471:5;483:5 attached (2) 380:26;410:13 attachments (1) 381:20 attempt (1) 365:1 attempting (1) 364:4 attend (2) 359:16;430:18 attended (2) 431:19;451:12 authenticated (1) 404:16 authenticity (1) 404:17 author (1) 407:2 authorization (1) 483:16 authorizations (2) 361:3;441:11	authorize (3) 406:26;407:7; 451:8 authorized (2) 398:6;441:9 available (11) 391:23;434:17; 448:5;450:3;476:17; 477:16;481:24; 487:17;490:23,26; 492:3 average (2) 361:25,26 aware (2) 410:17;443:15 away (1) 442:16 B Bacitracin (1) 482:20 back (25) 371:9,10,26;377:7; 383:26;394:7;413:2, 17;416:3;418:14; 420:20,26;421:5; 428:9;430:16;432:4; 435:15,16;441:17; 448:8;453:18;461:8; 466:2;467:19;476:3 background (3) 394:12,14;408:5 backgrounds (1) 395:1 Bactroban (1) 482:20 badge (2) 394:7;430:12 bandage (2) 482:11,13 bandages (1) 482:12 bargaining (2) 392:20;466:20 base (1) 446:1 based (2) 418:18;490:21 basically (2) 377:6;393:17 basis (3) 368:18;404:15; 426:1 basket (1) 370:24 bathroom (1) 480:25 bear (1) 408:23 bearing (1) 401:24 became (1)	443:15 bed (1) 367:19 began (3) 359:9,16;430:13 beginning (1) 392:20 behalf (2) 354:15;428:17 belief (1) 400:15 benefit (2) 377:5;435:22 benefits (8) 376:17;466:11; 480:8;488:24,25; 489:3,4,8 Besides (4) 436:2;441:8; 446:14,16 best (1) 436:15 better (5) 398:18;399:9,12, 13,15 big (1) 445:26 bill (6) 385:12,26;386:4, 11;421:21,22 billed (1) 386:17 billing (8) 385:24;386:2,5,19; 387:24,26;475:16,18 bills (5) 386:7;421:12,17, 18,19 bin (2) 370:19,23 birth (2) 404:2;408:10 bit (3) 355:16;382:8; 405:19 bi-weekly (1) 466:25 blood (3) 441:23;448:23; 449:1 blue (11) 394:12,14,16,19, 23,26;446:20;452:1, 3,5,7 body (1) 433:16 boot (1) 436:3 boots (1) 439:10 borne (2) 448:23;449:1 both (3)	405:17;442:21; 459:19 bottom (9) 381:15;399:3; 400:4;409:18; 412:12;464:1,23; 469:11;486:20 bought (1) 473:9 Bove (1) 473:9 box (4) 425:5;463:15; 474:4;476:21 boy (1) 395:15 break (4) 367:10;413:6,16; 415:1 brief (4) 455:6;461:7;476:2; 489:25 bring (5) 410:11;416:21,21; 476:17,19 Brooklyn (4) 461:21,25;462:7; 468:25 brought (1) 486:3 brunch (1) 454:6 Buchanan (1) 450:2 building (11) 360:12;419:19; 420:12;475:12,13,17; 479:8,10,15,19,22 business (1) 425:6 busy (1) 391:21 C cafeteria (1) 454:6 call (25) 354:7;357:6,8; 361:3;389:14;418:9; 423:7,9;426:5; 428:10;429:21; 441:17;442:6; 465:24;470:23,24,25; 471:1,1,7,11;476:23, 25;487:17;492:3 called (7) 354:15;360:10; 374:4;428:17;453:8, 10;482:8 calling (2) 423:23;490:19 calls (2)
---	---	---	---	---

354:11;433:21 came (16) 360:23;370:5; 374:3;375:20; 376:13;410:12; 421:23;426:5; 443:16,17;450:10; 453:5;480:8;488:23; 489:3,8 Can (87) 355:16;360:26; 362:17;364:17; 365:1;366:5;372:13; 373:8;376:21; 377:12,25;378:14; 382:20;384:8; 386:17;391:5,10; 392:9;396:5;397:1; 400:16;401:23; 402:7,16;403:13; 404:6,20;405:3,19; 406:16,22;408:14; 410:18;412:25; 413:3,4,11;417:9; 419:11;422:20; 423:19;425:19; 427:9,14;432:4; 433:11,14,18;435:9; 436:11;438:1; 439:23,26;442:6; 445:15,17;446:19,20; 450:16;452:4; 453:22;457:11; 458:15,22;461:13,13, 18;462:20;467:11, 15;468:22;477:24; 479:26;480:1; 481:19,21;482:9,10, 14,14;485:17,18; 486:12,23;491:3,13; 492:8 can't (8) 355:7;426:11,12; 429:15;437:18; 443:17;477:19;491:9 card (6) 358:22;394:10,12; 479:3;488:17,21 cardiology (1) 487:20 cards (4) 394:14,16,24; 395:1 Care (71) 355:4;359:23; 360:26;361:7; 362:18,19,21;363:25; 364:6;366:11,12; 367:3,5,10,15,16,16, 17,24,26;368:5; 377:23;379:21; 382:14,17;389:2,4; 391:16,17;392:4,26;	397:21;422:9; 423:26;424:9;425:7, 26;426:9;429:20; 430:8;435:8;439:19; 444:9;445:17,21; 450:13;455:26; 456:3;457:2;458:20, 24,26;470:25; 473:11;476:13; 478:2,3,16,17,19,20; 480:1;481:16;483:6, 12,20;484:2;488:10, 14,15,15 caring (1) 482:6 Carmen (4) 354:11,14,20; 475:10 C-a-r-m-e-n (1) 354:20 carrying (1) 367:2 case (2) 354:4,7 cast (1) 436:4 casts (2) 439:5,6 catch (1) 382:23 caveat (1) 380:25 cease (2) 417:20;418:1 celebrate (1) 451:16 cell (2) 446:1;471:2 cells (1) 439:26 Center (32) 355:4;359:5,13,23; 360:26;361:7;364:6; 367:6;377:23;389:2, 5;422:9;423:26; 424:9;426:1;429:20; 430:8;435:8;439:19; 444:9;455:26;456:3; 457:2;458:20,24,26; 473:11;478:16,19,20; 483:12;484:2 Center's (1) 382:14 Central (3) 445:3,5,6 Cerner (27) 372:11,15,26; 375:14;384:18; 385:10;427:19,20; 436:10,17;437:1,11, 18,22;438:1,3,24,25; 442:17;478:23,23,26; 479:2;483:21,22,26;	484:1 C-e-r-n-e-r (2) 372:19,21 certain (6) 367:21;433:25; 445:13,16,22;475:8 certainly (2) 416:20;454:13 certificate (2) 408:20;469:22 certification (2) 449:4,5 Chain (1) 356:13 chamber (2) 393:10,14 chambers (2) 393:9,13 Chan (13) 356:14;368:25; 369:20;370:8;389:7; 390:8;430:6;449:20; 470:10;476:26; 477:2,4;488:2 C-h-a-n (1) 356:15 Chan's (2) 390:6;470:12 chance (1) 393:25 change (1) 481:21 changed (1) 490:22 changes (1) 481:19 C-h-a-n-n (1) 356:16 character (1) 366:20 charge (1) 420:7 chart (2) 437:1;483:8 charting (1) 437:16 check (5) 379:22;391:5; 413:4,14;480:22 checking (1) 440:15 chest (1) 450:20 choice (2) 480:3,4 choices (1) 480:5 choose (2) 452:5;472:12 Christmas (2) 453:15;473:7 church (2) 420:8;421:1	clarify (1) 382:20 clarifying (1) 414:1 Clarke (4) 361:24;365:23,26; 366:2 class (4) 377:15;443:15,15, 21 classes (3) 376:22;377:10,12 classification (1) 414:12 clean (1) 371:10 cleaned (2) 371:1;448:9 clear (4) 401:7,10;405:1; 415:1 clerical (4) 417:14,17;441:14; 442:4 click (2) 386:25;476:20 clicked (5) 429:15;477:8,8,9, 21 clinic (8) 356:21;391:15; 433:22;437:3;438:4; 445:18;487:21,21 clinical (5) 393:26;394:6; 426:6;429:7;465:5 clippers (2) 447:23,24 closed (2) 438:24;483:4 closely (1) 481:25 clothes (1) 374:10 cml9011@nyporg (1) 375:1 Co (1) 459:26 code (3) 388:11,21,23 coder (1) 386:13 codes (5) 386:13,20;387:2; 388:14,19 coincide (1) 441:26 collaborate (1) 438:25 College (2) 397:18;407:24 colon (1) 421:24	color (4) 370:5;437:17; 446:22;472:9 coming (7) 395:11;413:22; 423:13,19;436:9; 441:17;457:12 common (1) 364:5 communicate (1) 387:13 communicated (2) 387:14,15 communications (1) 357:7 community (1) 366:13 company (5) 386:17,22;388:2,3; 474:1 compare (2) 437:16;454:11 compatible (1) 437:22 complete (6) 398:14,16;412:8; 416:19;460:26;477:6 completed (7) 397:7;412:10; 456:15,17;462:3,16, 17 completely (1) 399:4 completes (1) 412:13 completion (3) 419:15,18;420:3 complication (1) 370:4 compression (1) 436:3 computer (11) 372:26;373:16,17; 374:19;378:18,22; 409:14,15,16;435:13; 448:17 computers (1) 457:3 concern (1) 413:21 concerned (3) 366:18,19;491:21 concerning (1) 381:11 concerns (1) 366:14 conducted (4) 356:3;375:25; 376:6;431:25 conducting (1) 360:22 conducts (1) 376:8
---	--	--	--	--

conference (1) 435:14	396:20;397:24,24; 398:1;400:9,20; 401:8;402:21; 403:18;404:25; 407:7;411:13;412:2; 425:7;459:26; 461:16;462:2,24; 464:15;465:6,9; 469:9;470:1;476:22; 477:6;478:4	358:1;399:22; 401:24;403:9;404:1; 408:10;449:17	departments (1) 360:1	354:25;367:26; 429:3;473:12; 477:23;491:23
confirm (5) 423:10,11,14; 425:17,19		dated (3) 399:16,21;463:20	depending (1) 442:13	direction (1) 458:18
confused (1) 475:22		day (35) 356:10;357:9; 359:14;361:25,26; 362:18,23;369:1; 371:5;383:8;391:17; 19;419:25;420:1,2,3; 3;423:20;451:17; 453:20,22;454:11; 456:18,20;462:5; 470:12,26;471:9,10; 474:5,10,12,23; 485:23;487:10	depends (2) 372:9;440:24	Director (6) 368:26;389:8; 430:8,9;470:11; 488:9
connection (2) 472:23;476:12			depth (2) 437:17;484:20	dirty (1) 370:26
consent (5) 407:4,6;440:1; 484:8,11	couple (8) 370:3;412:20; 413:14;420:19; 449:8;455:21; 475:26;487:4		describe (8) 355:16;360:26; 362:17;376:21; 378:14;433:14; 439:23;482:14	discharge (2) 361:4;422:11
consumer (1) 407:17			described (2) 378:15;459:25	discharged (1) 422:15
contact (16) 361:8;363:11,12; 373:23,24;403:17; 420:11;426:9,11; 436:4;439:6;442:4; 473:12;475:23; 476:22;487:14	courier (6) 372:2;446:6,7; 448:4,10;474:22	days (1) 367:21	description (2) 476:11;482:16	disciplined (1) 471:14
	course (4) 376:23;435:24; 443:7,11	daytime (1) 382:11	descriptions (1) 388:19	discuss (2) 423:5;434:22
contacts (1) 487:13	courses (2) 443:5,6	deal (1) 491:18	designated (2) 444:25;445:11	discussed (1) 490:14
contained (1) 405:21	COURT (1) 373:4	debating (1) 370:4	desk (6) 355:5,9;373:17; 474:26;475:7,9	discussion (2) 413:1;467:17
contention (1) 414:25	cover (1) 432:11	decide (1) 435:24	detail (1) 355:17	discussions (1) 490:21
continue (4) 362:4;417:6; 433:12;455:8	coworker (2) 387:15;417:13	decides (1) 364:14	determine (2) 364:21;387:19	dispositive (1) 466:8
convening (1) 416:4	CPR (4) 420:6;421:1; 442:23;479:5	decision (1) 435:24	determines (1) 388:23	dispute (2) 379:2,8
conversat (1) 432:9	craft (1) 474:3	defense (1) 443:21	determining (1) 381:11	distribute (1) 444:18
conversation (3) 410:18;432:10; 488:7	create (6) 355:18;372:13; 385:7;404:13;427:8, 13	degree (2) 407:24,25	diabetics (1) 367:18	doc (1) 416:22
cookies (7) 371:10,20;447:4, 11,11,14,17	created (2) 405:25,25	delay (1) 491:6	diagnosed (1) 421:23	doctor (24) 361:5,8;362:18; 363:25;369:20; 378:8;388:23;422:6; 423:13,18,19;430:10; 435:14,16;439:4,8; 441:8;442:15; 451:10;456:5;458:1; 473:8;483:22;484:12
copies (2) 358:9;399:25	critical (1) 487:15	deleted (1) 404:1	diagnoses (1) 388:24	doctor's (4) 364:2;374:23; 458:4;480:17
copy (14) 365:15;395:25; 396:10;398:18; 399:9,12,13,25; 416:6,8;436:26; 455:14;461:1;462:23	CROSS (3) 381:24;392:7; 456:10	deliver (2) 409:12;446:26	diagnosis (3) 388:21,22;451:10	doctors (19) 361:11,25;362:15, 21;364:5,7,20,24; 365:5,21;370:8; 422:8;426:9;433:22; 439:3;453:5;455:22; 456:2;480:18
corner (2) 425:6;485:9	cue (2) 447:23;484:19	delivered (4) 371:16;474:4,19; 487:26	didn't (16) 376:1;381:6; 392:15,17;396:10; 406:2;410:10;418:6; 419:10;426:25; 431:12;454:10; 461:18;465:12; 479:16;485:12	doctors' (2) 365:15;422:11
corporate (1) 446:9	curious (1) 447:8	delivers (2) 371:18;446:2	different (15) 362:18;371:2; 384:15;386:2; 395:23;400:14,16,26; 410:10;418:22; 438:4;439:25;466:7; 468:11;474:15	document (59) 357:10,18,20; 358:13;380:5,6,10, 13,15;381:7,10; 391:7;395:18,24; 396:1;398:9,14,15, 16,17;400:1;401:24; 402:7,14,17,19; 403:8,15,16,25;
correctly (1) 481:22	current (1) 377:18	delivery (3) 394:10;474:23; 475:3	differently (1) 405:3	
cotton (1) 434:5	cut (2) 398:15;399:2	Demarys (4) 390:22,24;391:21; 475:10	dinner (2) 454:4,5	
couldn't (1) 479:12	D	demographic (3) 372:12;378:9,15	DIRE (6) 404:7;409:3,4; 425:14;463:4,6	
counsel (2) 392:7;454:21	daily (2) 368:18;426:1	Denaris (1) 390:23	DIRECT (6)	
count (2) 474:18;477:7	Damarys (2) 371:21,22	denied (3) 382:5,6,7		
County (26)	data (1) 437:21	Department (7) 356:6;366:11; 377:3;426:15; 434:15;478:25; 488:13		
	date (7)			

404:19;405:12,23,25; 406:10;407:16,20; 408:23;409:1;410:5, 15;411:14;416:21; 454:9,16,20;460:26; 461:20,23;462:13,26; 463:9;465:1;468:9, 10,11;469:11,25; 486:15 document's (1) 416:19 documentation (1) 468:24 documents (15) 360:13,17;370:16; 371:1;380:26; 395:11,21;405:17; 410:10,18;416:9,13; 418:18;431:16,20 doesn't (12) 377:20;391:17; 405:22;412:7,9; 418:20;423:17; 432:13;438:24,25; 465:13;474:6 don't (51) 360:17,19;366:12, 24;379:23;386:16; 387:6;388:25;391:9; 396:10;399:2; 404:15;405:24; 406:9,10;412:22; 435:21,21,21;437:8, 10,11;438:3,10; 439:6,24;441:12; 443:19;444:17; 445:24;446:21,22; 454:4;458:3,24,25; 464:12,13;474:18,18; 475:2;477:20;479:1; 483:18;486:7,9; 487:22;488:14,15,15, 26 done (11) 363:13;366:18; 424:9;441:24;442:8, 9,12;479:5;483:11; 492:5,8 Donovan (5) 369:15,19,25; 380:13;455:11 door (5) 420:8;457:11,11, 15;479:13 doors (1) 370:24 down (4) 367:10;377:21; 457:15;487:3 downloaded (1) 377:21 Dr (24) 361:12,14,19,19,	24,24,24;362:22,22, 22;365:23,23,25,26; 366:2,2;453:4;456:4; 472:23;473:1,2,9; 487:26;488:4 dressings (3) 481:19,21;482:6 dressings (4) 439:11;444:20,21, 23 Driver's (1) 416:12 drives (1) 446:14 drop (4) 371:6;421:12,25; 475:18 dropped (2) 475:15,19 drops (3) 371:9,9,10 drug (2) 359:2;431:22 drugs (7) 433:17,24,25,25; 434:3,5,7 dry (1) 474:5 duly (2) 354:16;428:18 during (14) 360:2;392:7; 431:12,16;432:8,8, 11,26;433:5;441:4; 450:10;481:19; 485:23;489:7 duties (3) 360:26;393:25; 433:14	412:18;482:7 either (2) 414:3;481:20 electronically (1) 411:11 Eleven (2) 460:3,5 Elizabeth (2) 390:24;391:26 Elizabeth's (1) 390:26 else (18) 356:9;370:11,25; 387:2;388:5,7,12; 390:21;397:13,14; 430:4;437:12; 440:23;447:4; 449:23;471:12; 481:14;488:2 e-mail (9) 357:9,19,26;358:3, 7;374:22,24,26; 443:20 e-mails (1) 358:9 Emergency (12) 365:8,14,19;376:4; 384:21;403:17; 426:10,15;443:1; 453:10;473:9,10 employed (6) 364:8;379:7; 417:17,25;418:10; 465:17 Employee (16) 359:5,13;366:22; 368:17;392:4;393:3; 417:20;418:1; 431:14,26;444:4; 479:25;480:7; 485:25;486:16; 491:16 employees (26) 359:21;364:7; 370:9;381:16; 389:20;391:11; 392:19;394:23,26; 417:14,17;430:22,24; 431:2;443:13;457:2, 5;459:7,11;466:6,16; 471:3;473:12;481:2, 11,12 employees' (1) 466:7 Employer (16) 379:8,10;381:1,8, 16;395:3;402:11,14, 21;406:7;412:9,13; 416:15;459:25; 463:15;490:20 Employer's (5) 392:23,25;405:2; 416:5;487:7	Employers (2) 395:10;487:3 employment (26) 355:14;359:10; 377:8,18;380:1; 395:20,23;396:7,8,9, 21;397:23;398:6; 400:21;404:25; 407:6;411:9,23; 419:4;420:10; 431:23;460:23; 465:8;468:25;470:2; 473:6 employs (1) 364:12 end (2) 355:20;427:3 engine (2) 429:18;476:10 enough (7) 360:20;399:5; 406:16;416:23; 427:7;435:20;447:7 entail (1) 481:17 enter (2) 438:1,3 entire (2) 383:15;412:8 entitled (1) 468:25 entrance (4) 457:13,15,18,20 Equal (1) 386:21 equipment (4) 440:8;441:5; 473:13;484:18 ER (4) 363:8,10,10,12 Erica (20) 356:4,10;357:6,19, 26;417:20,25;418:1, 2,3,9,18,26;419:4; 429:21,23;465:24; 476:25;486:5;489:6 Erin (1) 354:6 erroneously (1) 414:11 establish (3) 364:4;366:11; 367:4 established (1) 437:1 evaluation (4) 449:14,16,19; 450:20 even (3) 364:24;385:9; 436:24 evening (1) 382:7	event (1) 364:25 events (1) 451:12 Everybody (5) 360:24;431:16,19; 452:6;455:14 Everyone (1) 484:10 evidence (9) 358:13,18;401:21; 403:4;405:18; 411:21;463:18; 467:7;469:16 exact (3) 360:12;419:23; 421:9 exactly (4) 360:9;431:15; 434:13;488:16 EXAMINATION (11) 354:25;381:24; 392:7;404:7;409:4; 425:1;429:3;456:10; 463:6;485:1;491:23 examined (2) 354:16;428:18 example (2) 412:9;419:3 excellent (1) 491:1 except (1) 398:5 exclusively (1) 438:8 Excul (1) 482:21 Excuse (2) 364:15;476:6 excused (2) 428:3;490:5 exhausted (1) 425:15 Exhibit (39) 357:14,21;380:8, 26;381:21;395:3,8; 399:14,18;401:22,25; 403:5,7;406:20; 408:13,15;410:1,3; 411:22,24;460:8,14, 22,25;461:11;462:19, 21;463:19,22; 466:22;467:3,8,10; 468:20;469:6,17,19, 21;470:8 Exhibits (3) 358:19;395:12; 460:1 expensive (1) 480:2 experience (1) 478:3 Expert (19)
---	---	---	--	--

437:2,13,14,15,21, 21;438:2,20;483:4,9, 10,14,20,23;484:3,6, 7,9,23 explain (8) 386:9;432:7,8,24; 480:8;488:23;489:4, 8 explained (1) 480:5 explaining (1) 432:20 extended (1) 473:10 extensive (1) 491:21 extent (5) 367:1,8;368:18; 410:17;413:21 extra (2) 399:24,25	435:21 feet (1) 368:9 FELSTINER (130) 354:9,11,22,26; 355:11;356:17; 357:1,13,17,22; 358:12,21;361:20; 362:3,7,11,13;363:2, 18,24;364:4,12,17, 21;365:1,4,18;368:4, 13,23,24;369:9,24; 372:19,25;373:6; 374:13;375:13; 376:3;377:17; 379:17,19;380:4,9, 17,19;392:6,9; 395:24;400:10; 401:19,26;402:5,15; 403:10;404:5,8,12, 15,22;408:7,16; 409:3,5,24;411:19; 412:7,12,17,21; 414:7;418:24;419:2; 424:25,26;425:2,11, 16,20,25;426:23; 427:1,7;428:11,25; 429:1,4;431:9; 433:12,13;434:21; 435:5;437:7,26; 439:1,18;440:10; 441:2;443:24; 446:25;447:7,20,21; 449:10;450:12; 451:23;452:18; 454:8,19,26;455:9, 16,18;460:20; 462:15;463:4,7,11; 467:5;468:4,7,9; 469:14;470:6; 479:12;484:26; 485:2;486:11; 489:24,26 few (3) 376:22;382:5; 390:3 field (3) 440:2,4,13 figure (2) 392:10;482:7 file (1) 470:1 filed (3) 396:8;476:7;477:5 fill (18) 377:2;396:16; 397:8;403:19;404:9, 24;406:4,25;407:19; 408:20;411:3; 467:24,26;469:8; 470:16,17;485:24; 486:18 filled (17)	396:13;402:17,17, 19;405:16,25; 406:10;409:6,16; 411:8,11;425:18; 461:15;485:26; 486:21,25;487:8 filling (5) 404:26;406:3,13; 407:23;409:21 final (1) 435:23 finalize (1) 386:4 find (3) 413:5;427:21; 436:14 fine (4) 379:25;392:5; 408:12;417:1 finish (1) 374:18 finished (1) 409:21 fire (1) 443:1 first (25) 354:7,16;358:5; 366:11;367:4; 381:14,15;390:24; 407:2;410:12; 412:20,22;418:16; 419:24;420:18,19; 428:18;433:15; 435:12;465:23; 471:9,10,15;476:22; 480:6 five (1) 480:14 fleece (3) 452:22,24;485:3 flood (1) 370:6 floor (4) 356:21;422:1,2; 450:1 flounder (1) 439:24 flows (1) 441:23 folder (1) 360:24 folders (1) 360:23 follow (2) 361:6;427:24 following (1) 412:10 follows (2) 354:17;428:19 Fonte (6) 391:1,3,15,17,25; 392:17 food (1)	451:17 Foot (7) 367:5,22;368:19, 21;379:21;391:15; 413:20 force (1) 491:9 form (39) 375:11;377:21; 396:13,13,15,19,24; 404:9,13,14,24,26; 405:7;406:10,13,25; 411:3;412:2,9; 432:25;434:10; 435:22;445:1,23; 448:25;461:10; 462:3;465:12,13; 467:24,26;469:8; 477:5,22;484:10,10, 11;485:22;486:21 forms (5) 412:14;440:1; 462:5;484:12;485:26 forth (1) 466:22 foundation (1) 363:1 Four (2) 398:11;473:11 Frank (229) 358:14,16;361:13; 362:2;363:1,16; 364:1,7,10,15;366:4, 7,15,21;367:5,12,15; 368:11,14;369:7; 375:11;376:1;379:3, 11,14,22;380:2,23; 381:2,6,10,18,22,23, 25;383:7;384:2; 385:14;387:17,21,22; 388:18;390:10; 391:11,14;392:3,12, 19,22,25;393:2,18; 394:22;395:3,5,14, 16,20,24,25;396:1,4, 18;397:3,5,6;398:13, 18,20,23;399:5,9,15, 19,24;400:1,3,12,18, 23;401:12,17,23; 402:1,4,6,18,26; 403:6,12;404:1,23; 405:5,6,10;406:18, 21;407:1,11,14,16; 408:2,9,14,17,18,19, 25;410:2,7,12,15,21, 23;411:2,17,23,25; 412:5,24;413:6,10, 13,24;414:2;416:8, 12,16,20;417:1,4,10, 12,22;418:4,6,8,14, 16;419:6,9,13,14; 420:17;421:4,14; 422:4;423:3;424:3,	12,22;425:9;426:25; 427:23,25;447:6,8, 13,18;451:20;454:13, 17,21;455:7;456:8,9, 11;459:4,6,10,16,20; 460:1,4,6,7,11,18,23; 461:2,5,9,12;462:12, 18,20,22;463:2,20, 24;464:22;466:5,9; 467:3,9,15,20;468:3, 10,14,18,21;469:1,5, 7,13,20;470:4,9; 471:24;472:18; 474:8;475:26;476:4; 477:26;479:16,18; 482:16,18;484:15,17, 24;490:1,2,25;491:3, 5,26;492:2 Franks (1) 417:6 free (1) 451:17 Friday (2) 382:1,16 front (11) 355:4,8,9;368:1; 371:23;373:17; 441:16;450:4; 474:26;480:25;485:6 full-time (1) 400:19 functions (1) 421:6 further (8) 357:7;361:5; 405:12;424:12; 484:15,24;487:3; 490:8
F				
face (1) 408:2 facility (4) 367:17;450:13; 454:6;478:5 fact (5) 394:23;457:22; 472:19,22;478:26 factual (1) 466:4 Fair (3) 360:20;399:5; 447:7 fall (1) 376:25 familiar (4) 412:14;462:4; 463:26;488:16 far (2) 413:19;454:13 faster (1) 491:10 favor (1) 372:15 fax (6) 377:2,4;434:9,12; 441:25;445:9 faxed (4) 365:11,12;445:3; 481:26 faxes (2) 365:14;445:8 Fed (1) 410:9 Federal (2) 408:21;410:5 FedEx (1) 474:20 feel (1)				
				G
				garment (1) 472:24 gather (1) 438:20 gathered (1) 438:18 gave (9) 449:19;452:24; 453:3,4;455:10,11; 471:17;472:26;486:8 general (2) 366:5;367:21 generally (2) 382:11;475:2 generated (1) 421:22 gentleman (1) 443:4 gestures (1) 362:2 gets (3) 386:21;445:3;

474:4 gift (4) 453:4;472:26; 473:7,11 gifts (1) 452:19 gist (1) 483:17 given (11) 360:4,20;367:17; 378:17;380:13,15; 406:7;413:13;433:5; 444:26;455:14 gives (9) 378:8;439:4; 442:16;445:19; 447:17;449:11; 458:26;477:12; 483:22 giving (1) 361:4 goes (8) 366:13,17;368:17; 388:13;447:15; 450:1;481:24;483:6 good (2) 413:6;427:7 grab (1) 437:1 graft (6) 439:24;440:3; 441:5;473:24;484:2; 488:11 grafts (7) 439:19,22,25,26; 445:15;446:3;473:23 graphics (4) 446:1;473:26; 474:2,3 Graphs (1) 445:26 great (1) 372:24 Green (1) 462:18 greet (5) 361:2;368:5,8; 391:22;422:19 group (1) 430:23 guess (4) 367:14;370:24; 377:6;490:22 guide (1) 355:17 guys (1) 490:13	436:24 hadn't (1) 410:6 hall (1) 457:15 hallway (3) 457:13,15,20 hand (7) 354:12;360:23; 362:2;387:20;425:6; 428:12;466:3 handbook (2) 431:14,15 handed (4) 358:5;396:1;400:1; 454:16 handing (1) 461:9 handles (1) 387:4 handwriting (7) 397:2,4;463:12,13, 15,16;487:5 handwritten (5) 397:11;461:22; 485:11,15;487:4 Hang (1) 455:5 happen (1) 412:13 happened (1) 443:17 happens (5) 386:20,21;435:11, 18;444:23 hasn't (3) 372:12;404:16,17 haven't (2) 417:2;449:18 HBO (6) 450:20,22,24,25; 451:2,2 he'll (3) 371:1;435:19,19 He's (9) 393:7;395:9; 424:15,19,20,22; 448:5;456:4;491:8 head (1) 467:11 heal (2) 393:17;434:6 healing (1) 393:16 Health (20) 359:5,13;397:20; 431:26;432:9,10,12; 433:8,15;444:4; 466:11;476:12; 479:24,26;480:1,1,7; 481:16;488:23,25 hear (5) 355:7;376:1;	426:25;479:12,16 heard (1) 387:15 HEARING (404) 354:2,5,10,12,18, 22;355:9;356:14,16, 22,25;357:11,16; 358:14,17;361:15,18; 362:9;363:4,6,9,13, 15,17,21,23;364:3,8, 11,14,19,23;365:3,9, 12,14,17;366:5,10, 17,25;367:8,13,16, 23,26;368:3,15; 369:8,16,20,23; 372:15,18,21,24; 374:6,9,12;377:9,12, 16;379:2,5,12,16,18, 22,25;380:1,3,6,18, 21,24;381:4,8,13,19, 22;382:20,24,26; 383:3,6,24;385:9,13; 386:9,15,18,24; 387:1,4,6,9,12,16,18; 388:11,14,17;390:9; 391:5,7,8,12,24; 392:1,5,8,10,12,14, 21,23;393:1,15; 394:18,21;395:4,6,9, 15,17,22,26;396:2,3, 12,17;397:1,4; 398:25;399:10,24,26; 400:1,2,14,22;401:9, 18,20;402:2,16; 403:1,3,8;404:4,6,11, 20;405:1,14,18; 406:1,4,6,14,24; 407:9,15,19,22,26; 408:4,8,12,26; 409:20,23,26;410:4, 8,14,16,22,25; 411:18,20;412:6,11, 15,19,25;413:2,8,11, 16,23,26;414:4,8,14, 18,22,24;416:3,11, 14,18,24;417:5,21; 418:2,7,12,15,17,22, 25,26;419:3,7,11; 420:13,21,24,26; 421:3,11,13,17,19,21, 25;422:3,26;423:22, 25;424:2,13,18,21, 23;425:13,19,22,24; 426:22;427:8,12,17, 20,23,26;428:4,7,9, 12,20,25;431:6; 432:4,14,17,19,23; 433:1,4,7,11;434:18, 20;435:2;437:4,6,9, 12,14,20,25;438:5,8, 11,15,17,21,23,26; 439:16;440:4,6,9,23; 441:1;443:10,14,19,	23;446:16,19,22; 447:10,15,19;448:25; 449:3,6,9;450:8,11; 452:2,6,9,11,14,17; 453:12,16,24;454:1, 7,10,23,25;455:5,8; 456:1,7;459:3,5,8,12, 15,17,19;460:3,5,10, 19,21;461:3,6,8; 462:14,16;463:3,5, 12,14,17,23;464:2,7, 9,11,14,17,20;466:2, 6;467:4,6,11,16,19; 468:6,8,12,16;469:3, 15,18;470:5,7; 471:21,23;472:4,7, 11,14,17;474:1,6; 476:1,3;477:11,14, 17,20,25;479:14; 482:15,17;484:25; 486:7,10;490:1,3,6, 10,13,17,26;491:4,8, 13,18,19,25;492:4,10 Hello (1) 422:25 help (5) 367:20;391:10,20; 426:12;433:19 helped (1) 436:3 helpful (1) 413:24 helps (3) 391:16,19;393:16 Henriquez (1) 489:13 hey (1) 443:20 highlight (1) 455:26 hire (2) 403:9;420:10 hired (9) 400:25;412:3; 418:16;419:24; 420:16,18,19;467:22; 477:3 Hispanic (1) 403:22 history (2) 433:15;436:13 hit (1) 355:22 hitting (1) 396:16 hold (1) 455:16 holding (1) 467:13 holiday (1) 453:20 home (3) 409:16;433:17;	481:16 honestly (6) 433:10;461:17; 464:6,12,13;477:24 Hospital (61) 434:2;435:4; 436:18,23;439:21; 441:11,24;442:1; 443:5;445:7,20,21; 446:11,15;448:3; 451:13;453:5,6; 454:6;455:20; 456:23;457:6,24; 459:26;465:11,15,16, 18,25;466:11,16; 467:22,25;468:1; 472:20,24;473:4,17; 474:11,17,23;475:12, 13,17,20,24;476:18; 478:16,16,19;479:6, 8,20,22,26;481:11, 11;487:14;488:10, 14;491:15 hour (1) 419:18 hourly (1) 466:23 hours (9) 381:26;382:11,12, 14,15;419:17,18; 420:4;433:2 House (7) 432:1,2;442:20,26; 444:5;479:7,21 HR (2) 356:6;416:16 Hubsher (2) 361:19;362:22 H-u-b-s-h-e-r (1) 361:21 Human (11) 358:25,26;359:20, 20;377:3;409:14; 430:2,16;444:4; 449:26;480:8 hundred (5) 443:18;463:26; 464:2,3,5 Hydrogel (1) 482:20 hyperbaric (10) 367:20;393:7,13, 14,19;424:15;436:6, 9;447:5;450:23 hyperbarics (2) 433:18;436:8 Hyperbolic (1) 424:1
H				
H&P (2) 436:10,12 habit (1)				I
				I'd (5) 406:19;407:14;

460:23;468:18;492:5 I'll (22) 361:5;362:4; 378:17;386:2,11; 403:13;412:24; 416:8,18;426:4,5,7,7; 429:1;433:19; 435:12,12;436:9,26; 468:18;471:1;490:25 I'm (111) 354:18;355:6; 357:10,11,15,20; 358:1;361:13;362:1, 3;364:12,13,21,23, 24;366:18;368:15, 22;369:18;370:22; 371:19;376:1,9,11; 379:3,7,26;380:5,19, 21;381:4,19;382:13; 385:17;387:8;390:1, 16,16;391:2,3,24; 394:15,25;399:1,11, 20;400:24;402:1,13; 403:10;404:26; 406:14;412:12,19; 413:3,3,26;414:7; 416:5;417:16;418:2; 419:26;420:6,6; 422:18;424:6; 425:11,12;426:13; 428:21;430:26; 431:14;433:10,22; 434:13;438:3,15; 442:8;443:9,16,16, 17;447:5,8;449:17, 17;454:5,9,15; 457:25;458:4;460:8, 12;461:9;463:10,14, 14;464:5;465:7; 467:12,21;468:17; 469:3;477:13; 478:18;486:5,12; 487:9;488:16; 491:21;492:6 I've (3) 435:20;443:7; 489:2 I-9 (2) 412:8,14 ice (1) 474:5 ID (20) 358:22;363:7; 374:7,8;376:16; 378:26;394:7,10,14, 16,23;395:1;410:5, 10,21,23,24;479:3; 488:17,21 identification (3) 430:12;473:6; 491:3 identified (20) 357:14,21;380:8;	395:8;399:18; 401:25;403:7; 406:20;408:15; 410:3;411:24; 460:14,25;462:21; 463:22;467:10; 468:20;469:6,19; 491:6 identifies (2) 416:9,15 identify (12) 396:5;402:7; 403:13,22;405:12; 406:22;418:6; 423:22;446:17; 461:13;468:22;491:9 identifying (2) 403:14;408:10 ill (1) 471:11 illnesses (1) 367:14 important (1) 454:13 include (3) 368:19;398:23; 412:9 Including (1) 389:6 incomplete (1) 381:6 Indeed (7) 355:17,17;429:14, 17;476:5;477:11,12 Indeed's (1) 477:22 Indeedcom (6) 429:18;476:7,8,9, 16;477:6 indicate (2) 381:15;414:10 indicated (5) 397:24;398:5,9,11; 462:9 indicates (1) 381:14 indication (2) 472:19;473:3 individual (1) 392:15 individuals (1) 368:19 industry (2) 455:21;476:13 info (1) 437:2 inform (1) 426:4 informa (1) 397:15 information (61) 365:2;372:4,14; 373:20;384:5,6,13,	15,24;385:2,6; 386:19,20;387:26; 388:8,9;396:14,20, 23;397:7,8,8,12,12, 15,16;402:21;403:15, 17,24;404:3,18; 405:7,21;406:7,11, 26;408:3,10;412:10; 427:2,21;436:10,15; 438:6,12,18,19; 461:21,24,25;463:15; 467:21,23;468:1,15; 483:4,6,8,9;484:22 in-house (2) 433:26;434:1 initial (4) 419:15;420:10,10; 451:2 initially (1) 413:15 initiate (1) 435:25 initiates (1) 442:15 injectable (1) 434:4 injections (6) 458:12,14,16,17, 22,26 inputting (2) 384:24;438:9 inquiry (2) 400:16;466:3 inside (1) 457:11 insofar (1) 381:14 insoles (1) 487:26 inspect (1) 370:5 instance (1) 475:15 instead (1) 434:23 instruction (1) 361:5 instructions (4) 412:20,22;422:14, 17 instruments (2) 371:26;447:22 insulin (2) 458:15,17 insurance (15) 361:3;385:12; 386:14,17,22;388:2, 3;432:9,10,12;433:8; 441:9;479:24;480:1, 1 intention (1) 490:22 interact (1)	425:26 interacted (1) 446:7 interaction (5) 378:12;426:3,14; 441:14;475:3 interactions (1) 378:14 interchange (1) 491:15 interest (1) 366:14 interesting (1) 410:4 internal (2) 382:24;468:9 interview (19) 356:1,3,5;429:22, 25,26;430:4;432:26; 433:5;465:24; 476:25,26;477:2,4; 478:9,10;488:3,5; 489:7 interviewed (7) 355:23,25;356:9, 11;430:6;485:24; 488:2 into (32) 358:13,18;367:9; 368:21;378:9; 379:11,15;385:2,6; 386:20;387:26; 413:14,14,20,22; 422:22;427:2,9; 436:10,15,17,26; 437:22;438:1,12; 483:7,7,12,23,25; 484:7,23 Intranet (6) 374:14;375:4; 448:15;449:2;480:6; 485:24 invasive (1) 482:25 invited (4) 453:24,25;454:5,6 involve (1) 378:7 involved (7) 367:23;371:12; 385:24;424:7; 440:12,15;482:3 involvement (4) 386:5;424:4; 440:11;450:18 Iordizor (1) 482:21 isn't (4) 400:12;466:1,7; 478:26 issue (7) 380:1;405:11,14, 15,15;438:12;447:9	It'll (1) 449:1 it's (87) 354:5;365:11,12; 366:26;368:13,14; 370:24;379:15; 381:17;384:11,19; 388:2;389:6;395:23; 397:26;399:20; 402:2;406:11,16,25; 410:17;412:8,8; 413:13,13,20,22,22; 414:23;416:9,16,17; 417:8;418:14,22; 425:13,13,14;434:13; 436:24,24;437:16,16; 447:16;448:3,26; 449:1,3,5,11;453:14, 21;454:13,23,24; 455:2;459:3,4,9; 462:15,17;468:9,17; 471:22;474:5; 476:10;478:26; 479:9,21,23;481:26; 482:8,12,14;483:7, 14,26;484:10,10; 486:22;487:6,18; 489:21,21;490:15; 491:8;492:6 item (1) 475:16 items (3) 475:8,9,18
J				
jacket (9) 452:21,21;453:3,4, 11,12,14;472:22; 473:3 jackets (1) 473:9 Jasmin (1) 393:23 Jeanette (4) 394:1;428:11,16, 23 J-e-a-n-e-t-t-e (1) 428:23 Jeffrey (1) 455:11 Jennifer (4) 369:15,19,25; 380:13 Joanne (5) 389:22;390:8,15; 489:1,3 job (26) 357:3;360:26; 364:13;370:14; 377:11;393:19; 403:19;406:8;429:5, 18;433:14;461:14,15,				

16,26;465:24,26; 474:25;476:10,11; 477:12;478:9,10; 482:16,26;488:16 jobs (2) 476:11,17 John (2) 393:6;424:15 Josephs (1) 397:18 judgment (1) 468:17 Judy (1) 450:2 juice (3) 371:10,20;447:4	371:25,25;384:1 kitchenette (1) 489:21 knew (2) 436:9;466:16 knowledge (1) 418:21 knows (1) 367:11 Kronos (2) 373:14;448:12 KRUEGER (4) 355:6;357:15; 417:7;420:16	441:21 legally (1) 398:6 let's (14) 354:2;367:4,9,10; 412:24;414:14; 416:3;428:5,9; 465:23;466:2;476:3; 490:14;492:9 letter (9) 399:16,21,21; 401:2,10,13;448:20; 455:2;463:20 license (2) 416:12;424:19 licensed (3) 458:6,9,18 Lidocaine (2) 434:4;445:26 light (1) 381:15 limit (1) 368:22 Lindsey (1) 393:4 line (15) 365:2;396:10,13; 407:2,4,5,7;409:7,8; 410:9;470:25;480:6; 485:26;486:18,25 linen (2) 370:26;371:10 link (3) 375:6;477:21,23 list (10) 391:9,9;392:3,19; 445:3;477:12; 481:24,26;489:22; 491:5 listed (1) 414:12 listen (1) 435:23 lists (1) 484:1 little (10) 355:16;360:11; 370:4,24;382:8; 386:2;405:19; 435:14;440:12;449:5 live (1) 439:26 Liz (3) 390:24;391:13; 475:10 LLC (3) 402:22;425:7; 462:24 located (7) 359:6;373:17; 431:26;435:3;448:2; 451:5;480:24 location (1)	479:6 locations (1) 360:2 locker (6) 480:23,24,26; 481:1,4;485:5 lockers (1) 481:6 log (1) 355:18 long (6) 419:15;435:20; 462:15;491:19,20,23 longer (3) 418:10;456:6; 487:21 look (23) 357:23;374:22,22; 379:11,12,15;396:12, 19;407:17;412:24; 419:3;436:25; 444:24,25;446:21; 448:21;462:6;464:1; 485:6,17,18;486:12, 23 looked (1) 375:2 looking (4) 358:1;392:15; 396:11;412:12 looks (2) 462:4;463:26 Lorenzo (8) 354:11,14,20; 355:1;357:18; 358:22;380:10; 405:26 L-o-r-e-n-z-o (1) 354:21 lot (12) 360:17,23;381:2; 416:22;429:16; 434:5;439:25,25; 441:21;451:20; 462:5;487:26 lower (1) 441:21 LPN (19) 393:24,26;394:4; 424:19;429:7,14; 433:14;442:21; 455:20;458:15,21; 459:8,9;462:1; 465:11;477:13,15; 480:26;484:12 LPN's (5) 422:17;425:26; 439:16;456:2;459:10 Lumocaine (1) 434:5 lunch (10) 383:21,22;413:7, 12,17;415:1;416:4;	481:8,12;489:10 luncheon (1) 415:3
M				
K	lab (2) 384:22;487:18 laboratory (2) 487:15,19 lady (1) 441:25 last (22) 356:4,12;370:22; 376:12,25;390:26; 391:10,13;392:1,15; 418:6;419:10,16; 443:9;446:10; 449:16,17,19;450:2; 452:22;455:24; 475:23 later (4) 357:4;420:24; 437:22;462:13 Latino (1) 403:22 Laughter (1) 451:22 laundry (2) 446:26;447:2 layers (2) 482:8,10 learn (4) 357:2,5;433:7; 450:8 learned (1) 466:18 least (4) 369:13;377:20; 412:17;492:7 leave (10) 391:12;406:13; 432:24,24;450:3; 470:22;471:1,7,13; 485:5 left (2) 414:11;452:23 left- (1) 425:5 left-hand (1) 463:8 leg (1)	Karen (34) 356:10,11;368:25; 369:20;371:15; 389:6,7,15,19;390:6, 8;426:18,18,19; 430:6;445:1,20; 449:13,20;452:26; 453:10;454:4; 470:10,16,19;471:1, 6,18;476:26;477:2,4; 481:22,24;488:2 Karen's (3) 356:12;434:17; 489:22 keep (1) 355:6 Kennedy (5) 389:22;390:8,15; 489:1,3 kept (3) 396:15,16;483:7 kind (19) 366:2,15,23; 367:15,16;426:3; 435:7,11;436:1; 438:23;440:22; 441:14;444:6; 445:23,24;447:22; 458:14;470:17; 487:14 kinds (1) 445:14 Kings (27) 396:20;397:24,24; 398:1;400:9,20; 401:8;402:21; 403:18;404:25; 407:7;411:13;412:2; 425:6;459:26; 461:16;462:2,24; 464:15;465:5,9; 469:9;470:1;476:22; 477:6,7;478:4 kitchen (3)	legally (1) 398:6 let's (14) 354:2;367:4,9,10; 412:24;414:14; 416:3;428:5,9; 465:23;466:2;476:3; 490:14;492:9 letter (9) 399:16,21,21; 401:2,10,13;448:20; 455:2;463:20 license (2) 416:12;424:19 licensed (3) 458:6,9,18 Lidocaine (2) 434:4;445:26 light (1) 381:15 limit (1) 368:22 Lindsey (1) 393:4 line (15) 365:2;396:10,13; 407:2,4,5,7;409:7,8; 410:9;470:25;480:6; 485:26;486:18,25 linen (2) 370:26;371:10 link (3) 375:6;477:21,23 list (10) 391:9,9;392:3,19; 445:3;477:12; 481:24,26;489:22; 491:5 listed (1) 414:12 listen (1) 435:23 lists (1) 484:1 little (10) 355:16;360:11; 370:4,24;382:8; 386:2;405:19; 435:14;440:12;449:5 live (1) 439:26 Liz (3) 390:24;391:13; 475:10 LLC (3) 402:22;425:7; 462:24 located (7) 359:6;373:17; 431:26;435:3;448:2; 451:5;480:24 location (1)	Ma'am (2) 428:10;490:3 Madam (1) 418:25 magazine (2) 455:21,21 magna-pressure (1) 439:10 mail (4) 370:18;371:9; 454:2;473:15 mailings (1) 370:12 Maimonides (1) 476:18 main (1) 373:24 maintains (1) 406:15 making (2) 381:5;475:3 management (2) 364:5;490:23 manager (3) 389:7,9;470:10 managers (2) 364:13,15 many (9) 361:25;377:12; 389:4;426:13; 458:15,15;474:15; 480:10,17 March (3) 460:13;462:10; 476:25 Maritza (1) 375:20 Mark (4) 370:22;395:14; 446:10;460:24 marked (15) 358:5;380:6; 395:18;399:16,20; 401:23;402:7;403:6; 406:19;408:14; 411:1;460:8;462:20; 463:20;468:18 marking (4) 357:11;395:6,12; 469:21 Martinez (7) 394:1;428:11,16, 24;429:5;455:19; 456:12 M-a-r-t-i-n-e-z (1) 428:24 material (5)

398:20,24;461:22; 463:8;473:24 materials (2) 431:12;485:25 matter (3) 379:2,8;492:11 matters (1) 413:14 max (1) 393:5 May (44) 355:13;356:2; 380:26;381:15; 383:14,14,15;387:21; 399:12,16,16,21; 400:20,22,24;401:24; 403:6;405:2;407:21; 410:22;411:8,9; 412:21;424:14; 429:12;431:8,10; 432:8,11;434:6; 442:9;444:25; 454:21;456:14,16; 462:23;463:20,25; 465:1,6;466:6;475:5, 26;481:18 maybe (13) 393:4,5;405:11; 409:3;419:17; 420:20;434:23; 439:23;440:11; 442:8;449:17;471:9; 476:17 mean (15) 386:10;401:10; 402:17;404:16,20; 406:10;422:26; 438:1,7;439:13; 444:4;454:10;459:9; 490:21;491:11 meant (1) 444:1 meantime (1) 399:11 measure (1) 435:12 Measuring (1) 484:20 Medahoney (1) 482:20 medical (8) 384:20;385:7; 427:16,17;430:8; 437:5;444:6;488:9 medicating (1) 436:2 medication (2) 444:15;482:7 medications (9) 444:8,9,11,18; 445:16,22;458:10; 473:22;482:19 Meeny (1)	360:10 meet (5) 356:10;369:18; 390:8,12,14 meeting (1) 369:17 meetings (2) 369:3,6 mentioned (8) 362:14;365:21; 368:25;390:12; 445:10,24;485:3; 487:22 message (3) 449:11;471:1,13 met (4) 489:1,2,6,7 method (1) 448:8 Methodist (71) 355:15,18;356:23; 360:6;363:7;364:20; 365:20;371:25; 373:7;374:7,8,10,14; 377:1;378:23;379:1, 9;383:10,17;395:12; 417:14;419:20; 420:5,8,12,22; 423:26;425:7; 426:10,15,20;427:13; 431:2;432:1;434:2; 446:15,18;448:15; 451:12;452:22,24; 453:18,22;455:20,26; 456:23;457:6; 459:26;465:11,15,17, 25;466:11;472:20; 24;473:4,17;474:11, 17,23;475:12,17,19, 24;476:13,18; 477:23;479:6,26; 481:11;488:19 Metronic (1) 484:1 microwave (2) 481:9;489:20 middle (2) 407:17;487:4 might (11) 382:8;391:24; 413:6;423:18;436:2; 477:9,9;487:26; 488:1;489:19;491:9 mine (2) 400:5;461:2 minute (1) 489:24 minutes (1) 475:26 missed (1) 391:25 missing (4) 362:2;461:1,3;	462:12 mis-speak (1) 379:24 mistake (3) 461:11;473:2; 475:22 moment (2) 391:5;428:6 Monday (4) 365:25,26;382:1, 16 month (2) 420:20,24 months (1) 443:2 more (18) 355:16;367:21; 369:13;405:5;408:5; 413:9,10;418:3; 419:25;420:1;435:9; 440:12;445:25; 454:13;482:12,14; 484:16;490:7 morning (4) 378:19;436:25; 456:25;462:18 most (3) 361:10;395:10; 397:23 mostly (3) 367:18;368:1; 487:18 mother (1) 403:20 move (2) 411:17;432:6 MSO (72) 364:8;379:9; 396:20;397:24; 398:16;399:18; 400:9,17,20,25; 401:8,22,25;402:21; 403:5,7,17;404:25; 405:25;406:20; 407:6;408:13,15; 410:1,3,21,23; 411:13,22,24;412:2; 413:4;416:6,17; 425:6;432:12; 453:25;459:26; 460:14,22,25;461:16, 21,25;462:1,7,19,21, 24;463:19,22; 464:14;465:5,8,10; 467:8,10;468:20,24; 469:6,9,17,19,21; 470:1,7,8;476:13,22; 477:7;478:4;479:24 MSO- (2) 395:6,18 MSO's (3) 392:25;395:8; 399:14	MSO-10 (6) 411:23,26;412:5; 413:3;416:5,19 MSO-11 (3) 460:10,12,21 MSO-12 (5) 460:24;461:13; 462:12;477:6;485:6 MSO-13 (3) 462:20,23;463:2 MSO-14 (4) 463:20,25;467:3; 485:17 MSO-14's (1) 467:6 MSO-15 (3) 467:9,21;468:3 MSO-16 (4) 468:18,22;469:1; 485:18 MSO-17 (4) 469:5,13,15; 486:12 MSO-18 (3) 469:18;470:4; 486:23 MSO-3 (62) 356:11,18,22; 359:7;360:1,5,6,11; 362:25;364:6,7; 369:11;370:20; 371:2,9;372:9,11,13; 373:8,24;374:25; 375:21,26;376:2,13; 378:23;383:10,17; 384:15,19,21;386:3, 13;394:10,14,23,26; 395:7,11,14,16; 396:5;397:24;398:1, 13;399:11;401:1; 410:24;417:14,17; 418:10;419:20; 420:5,8,9,12,14; 421:5;425:7;426:20; 427:13;431:2 MSO-3's (1) 427:3 MSO-4 (6) 399:16,20;400:4; 401:17,20;419:4 MSO-5 (4) 401:23;402:8; 403:3;425:3 MSO-6 (5) 403:6,13;405:10; 406:15;468:7 MSO-7 (3) 406:19,22;408:8 MSO-8 (3) 408:14,25;409:26 MSO-9 (3) 410:2;411:1,17 MSO-9's (1)	411:20 much (3) 402:10;427:26; 436:10 multi- (1) 482:9 multi-layer (3) 436:3;482:4,8 Multi-layers (1) 439:10 multi-paged (1) 410:15 multiple (1) 482:8 Mundy (3) 361:12,14;362:22 M-u-n-d-y (1) 361:17 muscle (1) 484:20 must (1) 450:20 Myself (2) 390:24;489:23
				N
				nail (2) 447:23,24 name (43) 354:19,20;355:19; 356:4,12,21;360:12; 370:22,22;375:20; 376:9,23;387:8,10; 388:3;390:24,26; 391:10,

458:4;468:19; 470:12;475:5; 481:19;482:9 needed (4) 387:18;433:18,18; 441:5 needs (1) 444:26 negative (2) 398:5;436:4 New (65) 355:15,18;356:23; 364:20;365:20; 371:25;374:7,8,10, 14;377:1;378:23,26; 379:9;383:10,17; 395:11;403:9;411:3; 419:20;420:5,8,12, 22;423:26;425:7; 426:15,19;427:8,12, 13;436:24,26; 442:13;446:14,18; 448:15;451:12; 452:22,24;453:18; 455:20,26;456:22; 457:6;459:26; 469:23;472:19,24; 473:3,17;474:11,16, 22;475:12,17,19,24; 476:13,18;477:23; 479:6,26;481:11; 488:19 next (7) 395:3;396:16; 412:13;420:8; 428:10;460:1;486:20 Nicholas (2) 430:6,7 night (2) 382:9;383:5 ninth (1) 450:1 non-healing (1) 367:19 non-prescription (3) 444:11,15;473:22 non-Union (1) 400:25 Nope (1) 480:20 normal (1) 423:1 normally (1) 475:6 notation (2) 485:9,11 notations (1) 485:15 Noted (2) 354:1;368:19 notes (2) 384:20,21 notify (3)	402:11,14;426:5 notifying (1) 402:9 November (1) 449:17 number (24) 357:15;362:14; 373:24;374:23; 377:3;385:7;395:3, 13;404:2;408:9; 410:21,23,24;416:13; 427:15,16,18,22; 434:14,23;436:26; 437:4,5;460:2 numbers (1) 416:13 numbing (1) 434:6 numerous (2) 474:10,12 nurse (22) 369:22;393:21; 394:3;424:20,22; 426:7,8,12;435:26; 445:21;455:22; 458:4,6,7,9;465:26; 481:21;483:1; 487:11,16,17;488:10 nurses (20) 388:26;389:2,4; 393:24;394:2; 426:11;433:21; 439:14,15;452:8; 453:5,22,25,26; 456:2;472:6;473:10, 11;481:18;488:14 Nurses' (11) 451:14,15,16; 453:11,17,18,19,21; 454:3,11;457:22 NY (1) 364:20 NYM (1) 395:12	403:1,2;406:11; 408:1,6,7;409:23,24, 25;411:18;412:6; 425:9,9;447:6; 462:14;463:3;467:4; 468:4;469:14;470:5 objections (1) 460:19 obligation (1) 491:7 observed (1) 371:16 obtain (1) 384:19 obtained (1) 384:25 Occasionally (1) 361:7 October (3) 444:2;449:17; 455:24 off (28) 371:6;386:11; 390:16;398:15; 399:2;410:18; 412:24,25;413:1; 414:11;415:2; 421:12,25;428:5,7; 432:12;436:11; 461:5,7;467:11,15, 17;470:12;475:15,18, 19;476:2;492:9 offer (21) 380:20;398:13; 400:21;401:6,17; 402:26;404:1; 407:14;408:25; 412:5;419:4;460:18; 462:12;463:2;465:8; 467:3;468:3;469:1, 13;470:4;478:10 offered (3) 400:19;443:13; 465:5 offering (2) 380:18;478:9 offers (1) 358:12 offhand (1) 360:18 office (50) 354:6;358:25,26; 365:15,24,25,26; 366:2,18,20;367:1; 369:1,4,25;370:6,18; 371:2;374:4;378:9; 380:16;382:11,14,14, 17,26;389:7,8;390:2, 3;400:19;401:7; 421:23,24,26;427:9; 430:2;444:2;445:6; 448:9;470:10,23; 473:15,19,25;474:9,	15,19;480:18,19; 481:20 office's (1) 367:3 OFFICER (397) 354:2,10,12,18,22; 355:9;356:14,16,22, 25;357:11,16;358:14, 17;361:15,18;362:9; 363:4,6,9,13,15,17, 21,23;364:3,8,11,14, 19,23;365:3,9,12,14, 17;366:5,10,17,25; 367:8,13,16,23,26; 368:3,15;369:8,16, 20,23;372:15,18,21, 24;374:6,9,12;377:9, 12,16;379:2,5,12,16, 18,25;380:3,6,18,21, 24;381:4,8,13,19,22; 382:20,24,26;383:3, 6,24;385:9,13;386:9, 15,18,24;387:1,4,6,9, 12,16,18;388:11,14, 17;390:9;391:5,7,8, 12,24;392:1,5,8,10, 14,21,23;393:1,15; 394:18,21;395:4,6,9, 15,17,22,26;396:2,3, 12,17;397:1,4; 398:25;399:10,24,26; 400:1,2,14,22;401:9, 18,20;402:2,16; 403:1,3,8;404:4,6,11, 20;405:1,14;406:1,4, 6,14,24;407:9,15,19, 22,26;408:4,8,12,26; 409:20,23,26;410:4, 8,14,16,22,25; 411:18,20;412:6,11, 15,19,25;413:2,8,11, 16,26;414:4,8,14,18, 22,24;416:3,11,14, 18,24;417:5,21; 418:2,7,12,15,17,22, 25,26;419:3,7,11; 420:13,21,24,26; 421:3,11,13,17,19,21, 25;422:3,26;423:22, 25;424:2,13,18,21, 23;425:13,19,22,24; 426:22;427:8,12,17, 20,23,26;428:4,7,9, 12,20,25;431:6; 432:4,14,17,19,23; 433:1,4,7,11;434:18, 20;435:2;437:4,6,9, 12,14,20,25;438:5,8, 11,15,17,21,23,26; 439:16;440:4,6,9,23; 441:1;443:10,14,19, 23;446:16,19,22; 447:10,15,19;448:25;	449:3,6,9;450:8,11; 452:2,6,9,11,14,17; 453:12,16,24;454:1, 7,10,23,25;455:5,8; 456:1,7;459:3,5,8,12, 15,17,19;460:3,5,10, 19,21;461:3,6,8; 462:14,16;463:3,5, 12,14,17,23;464:2,7, 9,11,14,17,20;466:2, 6;467:4,6,11,16,19; 468:6,8,12,16;469:3, 15,18;470:5,7; 471:21,23;472:4,7, 11,14,17;474:1,6; 476:1,3;477:11,14, 17,20,25;479:14; 482:15,17;484:25; 486:7,10;490:1,3,6, 10,13,17,26;491:4,8, 13,18,19,25;492:4 Officer's (2) 379:23;392:12 offices (1) 480:17 often (9) 369:12,15;371:4; 376:10,11;390:14; 426:9,13;434:17 Oka (1) 356:16 once (12) 369:13;371:26; 386:12,20;405:3; 448:9;462:16; 474:23;479:1;480:7; 481:20;489:2 One (107) 355:1;357:16; 359:1,17,23;362:23; 370:3,24;372:22; 374:19,25;375:18; 376:7;380:16,18; 383:8;384:3,25; 385:1,5,16,18;386:1; 390:4,18;391:5; 393:24;394:2;396:6; 398:5;399:3,25; 401:16,26;403:11; 405:5;410:4;412:14, 17;416:21,23;417:8, 18;419:25;420:1,2,3, 3,14;421:10,15,16, 24;426:9;427:2; 429:6,9,10;430:5,24; 432:4;436:14; 440:24;442:12; 443:13;444:24; 445:26;449:18; 451:17;452:26; 453:2;455:5,11,13; 456:12,18,25;457:3, 5,11,11;461:4;466:4;
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467:13;468:19; 471:3;473:21,24; 474:9;475:15;478:7, 12,20;479:1;480:2, 10,18;481:4,26; 482:10;483:22; 484:16;486:18,25; 489:24;490:15; 491:16 one's (1) 480:2 one-by-one (1) 360:20 ones (1) 439:9 only (9) 393:4;425:16; 433:25;434:17; 457:11;478:20; 481:19;487:3;491:21 open (2) 383:1;443:11 opening (1) 477:18 openings (1) 477:12 operate (2) 375:10,14 operation (1) 382:18 opportunity (2) 405:19;413:4 opposed (1) 410:24 order (11) 371:20,24;378:8; 433:17,24;434:8; 439:4;444:17;451:7; 458:3;483:22 ordered (4) 444:14;447:12; 457:26,26 ordering (1) 371:12 orientation (32) 359:16,19,21; 360:3,4,14,22; 419:16,19;420:19; 430:18,20;431:7,8, 13,17,20;432:6,7,11, 15,21;436:9;450:10; 456:15,17;466:10,18; 475:11;485:23; 486:3,6 oriented (1) 430:22 origin (1) 447:16 Ostrovsky (5) 418:19;419:5; 429:23,25;489:6 others (1) 412:18	Otherwise (2) 448:6,7 out (78) 367:2;370:18,26; 374:2;377:2,2; 378:10,15,18,21; 381:1;386:17;388:2; 391:10,16,19,20; 392:11;396:13,16; 397:8;402:17,17,19; 403:19;404:9,24,26; 405:16,26;406:4,10, 13,25;407:19,23; 408:20;409:6,9,16, 21;411:3,8,11;417:9; 425:18;435:13; 440:2,6,7,16;443:20; 444:23;445:1;447:4, 17,25;448:4,11,13, 20;461:15;467:24, 26;469:8;470:16,17; 471:15;481:21; 484:5,8,11;485:24, 26;486:18,21,25; 487:8 out-patient (1) 440:1 outside (4) 369:3;457:12; 481:9;489:18 over (23) 370:4;377:3;397:1; 410:23;422:23; 425:15;434:9; 441:25;445:3,3,8,9; 448:7;449:26; 461:19,20;475:23,25; 480:8;481:24;482:1; 487:13;489:23 Overruled (1) 364:3 owe (1) 377:8 own (2) 439:9;457:18 oxygen (2) 393:17;450:23	460:26;461:9;462:6, 9,13,13;464:1,23; 468:19;469:2,4; 485:13;487:3,4; 492:5 Pages (6) 381:17;395:23; 399:2,3;412:20,22 paid (2) 402:10;466:25 paint (2) 370:4,5 Papendick (2) 393:6;424:15 paper (9) 396:10;402:9; 429:2;451:9;470:3, 16,17,18,19 papers (1) 464:21 paperwork (2) 368:2;382:24 Park (44) 355:1;359:17,24; 361:1;363:26; 374:19;375:18; 376:7;380:16;383:8; 384:3,25;385:1,5,16, 18;386:1;390:4,18; 401:16;417:18; 427:3;429:6,9,11; 430:5,24;455:13; 456:13,18,26;457:3, 5;471:3;473:25; 474:10;478:8,12,20; 480:10;481:4; 483:23;489:19; 491:17 part (14) 360:4,13;370:14; 379:6;386:18; 400:26;410:8; 413:20;414:26; 420:7,9;479:8; 485:25;492:7 participant (1) 457:23 participate (2) 453:25;488:5 particular (7) 355:20;368:16; 385:21;423:14; 434:25;476:12; 477:18 particularly (1) 366:14 parties (5) 395:7;405:17,20; 413:19;414:1 party (1) 457:22 pass (3) 441:5;449:4;	467:12 password (1) 375:7 past (1) 382:8 patching (1) 439:12 pathogen (2) 448:23;449:1 patient (47) 361:2,4,9;367:3,24, 26;371:10;372:12; 378:9;384:13,21,24; 385:1,5,11;386:12; 388:8,8;391:22,22; 393:26;421:22,23; 423:13,15,17,18; 426:4,4,6,7;433:22; 436:22,24,26;441:18; 442:7,13;445:16; 457:12,21;480:12,14; 481:18;482:3,25; 484:5 patient's (5) 372:9,11;373:7; 441:17;451:9 patients (36) 366:3,23;367:11, 13,20;368:5,8; 370:12;372:4; 377:23;378:5;384:6, 11,13;385:15;422:12, 17,19,21;423:5,7,9; 424:5,7;426:20; 433:15;441:21; 442:1,14;444:21; 445:18;450:13,24; 457:14;487:24;488:1 pause (4) 455:6;461:7;476:2; 489:25 Pavilion (1) 360:10 pay (4) 377:6,7;402:3,4 paycheck (3) 375:2;459:25; 460:12 paychecks (2) 459:21,23 payday (1) 467:1 paystub (1) 374:22 Peart-Johnson (1) 393:21 people (3) 456:1;487:14; 492:2 percent (5) 443:18;463:26; 464:2,3,5 perform (3)	359:8;439:19; 489:16 performance (3) 449:14,16,19 performed (8) 359:4,12;386:1; 388:15,20;421:24; 440:1;484:2 performs (3) 443:3;451:1,3 period (1) 383:15 person (27) 360:22;374:6; 387:12;394:10; 403:20;405:16; 406:15;409:6; 418:18;419:4;427:9; 432:14;438:18; 444:24;445:10,11; 446:26;449:21; 475:3,6;480:8;489:3, 8;490:10,14;491:6,9 person's (3) 405:21;418:10; 434:14 personal (2) 374:25;397:9 personally (4) 387:14;412:13; 447:22;473:14 personnel (2) 405:2,22 pertaining (1) 368:12 pertinent (1) 483:9 petition (8) 366:8;380:14; 413:15,19,21,22; 414:3;455:2 petitioned (6) 367:6,7;368:12,18; 379:6;414:26 Petitioner (6) 354:7,11,15;364:4; 399:6;428:17 Petitioner's (1) 364:18 Pharmacy (10) 433:18,25,26; 434:1,13,14,15; 435:2;446:5;481:23 phone (14) 357:6,6,8;361:9; 374:23;391:22; 418:9;422:23; 423:23;434:16; 471:2;475:25; 487:13,17 phones (2) 433:19,20 phrase (1)
---	--	--	---	---

396:7 physical (9) 359:9;370:16; 431:24,25;436:13; 443:26;444:1; 459:22;479:19 Physically (4) 383:24;386:16; 429:8;461:18 physicals (1) 443:26 physician (21) 384:6;385:21,26; 388:19,24,25;423:12; 15,15;436:14;440:2; 24,24,26;441:10; 458:19;459:1; 472:26;483:1,2,3 Physicians (9) 364:15,16;366:7; 15,19,21,24;367:2; 384:20 physicians' (1) 384:12 pick (5) 370:19,25;371:1; 437:17;447:2 picks (2) 370:21,23 picture (3) 394:8;430:17; 435:12 pink (1) 452:11 place (5) 359:13;376:10; 430:1,2;492:13 places (2) 398:9,11 Please (11) 354:12;395:22; 396:5,5;401:23; 402:7;403:13; 428:12,20;461:13; 475:26 plenty (1) 446:8 plus (1) 420:4 pm (6) 415:4,4;416:2; 428:8,8;492:10 podiatrist (1) 362:19 podiatrists (2) 366:8;434:6 podiatry (1) 365:21 point (3) 392:25,26;432:7 pointing (2) 463:14;464:14 policies (3)	360:18;431:14; 432:20 policy (2) 433:4;471:6 populated (3) 461:19,20;477:9 portion (2) 396:11;411:12 portions (1) 367:2 position (13) 368:25;377:19; 379:9;389:26; 392:24;400:19; 429:13,15;462:1; 465:5,11;478:1; 488:8 positions (1) 477:15 possible (1) 492:7 Post (1) 474:19 postage (2) 446:3;473:23 practical (2) 458:7,9 practice (1) 366:12 preference (1) 423:18 prepare (3) 370:16;386:7; 491:7 prepared (2) 354:7;380:2 preparing (1) 440:13 prescribe (1) 458:10 prescription (3) 444:8,18;483:24 prescriptions (1) 483:25 present (10) 359:21;383:16; 435:6;440:18,23; 449:23;463:8; 481:20;487:8;488:3 press (1) 409:9 pressed (1) 409:17 pressing (1) 396:16 pressure (1) 436:4 pretty (1) 440:25 previously (1) 397:18 primarily (1) 366:18	print (4) 377:2;378:10; 409:17;448:20 printed (3) 397:16;485:26; 486:15 printer (1) 374:3 printing (1) 378:15 prints (1) 409:9 prior (3) 397:20,23;461:10 prizes (1) 451:17 probably (3) 376:11;410:7; 467:12 probe (1) 484:20 problem (3) 373:19;406:18; 410:9 problems (2) 373:20;374:3 procedure (6) 440:7,18,20;441:4; 484:11,13 procedures (2) 376:4;441:7 proceeds (1) 484:13 process (8) 355:16;357:8; 386:25;406:12; 440:11;470:14,15; 491:6 Processing (2) 448:1,2 produce (4) 405:12;416:8; 417:8;462:18 produced (1) 399:12 profile (1) 427:14 program (2) 448:26;450:9 progress (1) 384:20 promise (2) 377:7,18 propane (1) 469:22 proper (2) 364:25;482:6 Prospect (44) 355:1;359:17,24; 361:1;363:26; 374:19;375:18; 376:7;380:16;383:8; 384:3,25;385:1,5,16,	18;386:1;390:4,18; 401:16;417:18; 427:3;429:6,9,10; 430:5,24;455:13; 456:13,18,26;457:3; 5;471:3;473:21,25; 474:10;478:7,12,20; 480:10;481:4; 483:23;491:16 protected (1) 375:7 provide (14) 385:2;398:16; 403:17,24;435:8; 436:1;439:2;441:3; 458:17;467:21,24; 468:1;469:1;478:23 provided (11) 375:17,19;395:21; 396:20,24;397:15; 417:3;461:22;462:7; 15;478:26 provides (2) 393:17;478:25 providing (1) 462:12 pull (5) 427:10,14,15,16; 436:10 punch (6) 373:15;448:13,14; 456:25,25;457:3 punching (4) 373:10;448:11; 471:15,20 purpose (1) 374:21 purposes (3) 374:26;438:19; 483:10 put (39) 370:19,23;372:14; 381:2,6;384:13; 385:2,6;386:12,12, 20;387:2,26;396:14; 404:20;405:3,19; 419:10;427:2; 435:13;436:15; 437:20,21,22;438:5, 11,17,20;439:23; 444:20;451:9; 476:10,21;477:15; 480:21;482:12; 483:12;484:23; 491:19 putting (1) 482:11 PW (1) 443:13	459:6;476:19 question's (1) 364:25 quite (2) 433:10;449:18 quiz (1) 449:3 quote (1) 484:8
R				
radiologist (2) 489:10,12 radiologists (1) 481:13 raise (2) 354:12;428:12 raised (2) 366:14;413:15 rate (3) 402:3,4;466:23 ray (2) 414:19;450:19 read (3) 401:4;407:2;449:8 reader (1) 368:20 reading (1) 358:15 real (1) 405:11 realize (2) 392:16;408:4 really (6) 360:19;371:11; 390:16;425:13; 435:21;488:16 reason (2) 392:3,22 recall (10) 356:20;357:23; 374:7;396:14; 408:26;455:25; 477:18,20;478:6; 486:7 receive (23) 357:7;358:22; 360:13,16;365:5,10; 399:21;429:19; 431:5,12,15,16; 442:19,23;443:1; 450:14;459:21; 462:23;463:25; 473:15,19;479:24; 487:16 received (44) 357:9;358:3,7,10, 19;360:17,24;375:9, 14,23;376:4;381:21; 399:14;401:2,20,22; 403:3,5;408:8,13; 409:26;410:1;				
Q				
qualifications (2)				

411:20,22;431:20; 442:17;452:19,21,22; 455:2,19;460:21,22; 462:19;463:18,19; 464:3;467:6,8; 469:15,17;470:7,8; 472:22 receives (2) 474:10,16 recent (1) 397:23 reception (1) 480:15 receptionist (1) 450:4 receptionists (1) 390:18 recess (2) 415:3;428:8 recessed (1) 492:11 recognition (2) 452:19;455:19 recognize (3) 357:18;380:10; 454:20 reconvene (1) 492:11 record (46) 354:3,4,19;366:13; 367:5;368:20,20; 372:13;379:26; 381:9;385:7;403:14; 405:22;410:19; 412:23,24;413:1,2, 18;414:8,10,15; 415:2;416:3;427:16, 18;428:6,7,9,22; 437:5;438:12,14; 451:20;454:23,24; 461:5,7,8;467:15,17, 19;476:2,3;484:22; 492:9 recorded (2) 484:3,6 recording (1) 384:5 records (7) 373:7;385:10; 405:2;406:15; 418:13;436:17; 459:19 redact (1) 417:8 redacted (13) 380:26;397:7; 398:20,24;399:1,7,7; 403:14;408:11; 410:17,18,23;464:7 redacting (1) 410:6 redactions (5) 405:15;410:5;	417:10,11;460:16 REDIRECT (2) 425:1;485:1 refer (5) 426:7;442:12; 457:8;476:15,16 reference (2) 472:23;476:5 referenced (1) 474:22 references (2) 462:6,8 referencing (1) 398:26 referrals (2) 433:17;481:16 referred (5) 378:5;384:8;442:1; 486:16;488:10 referring (3) 375:12;384:12; 450:18 refers (1) 407:16 reflect (2) 396:23;451:20 refrigerator (1) 481:10 regarding (1) 379:23 register (10) 384:9,11;385:4,11, 15,15,18,21;386:2; 480:7 registered (7) 369:22;386:12; 388:26;389:2,4; 393:21;483:1 registering (2) 385:8;426:20 registration (1) 427:3 registrations (1) 382:23 regular (2) 382:8;467:1 regularly (1) 390:8 reimburse (1) 377:7 reimbursement (5) 376:17,26;377:5; 448:21;449:25 related (1) 377:11 release (2) 406:26;408:2 released (1) 487:25 relevance (5) 364:1;366:7;447:8, 13;482:15 relevant (10)	366:24;367:1; 381:12,16;406:11,12; 447:16;459:3,7; 466:7 remember (27) 356:21;360:9,9,11, 18,18,19;370:7; 377:20;396:11; 403:16;404:14,26; 412:20;419:10; 421:9;443:14; 461:17,19;464:10,12, 18;466:3;477:24; 486:5;487:11;488:26 remove (1) 381:17 removed (2) 381:18,20 Renee (4) 445:9,10,12;448:7 renew (1) 444:1 renewal (1) 448:23 renewed (2) 442:26;479:5 re-offer (1) 405:10 Repeat (3) 384:26;402:13; 417:16 rephrase (3) 362:9;398:1; 431:19 rephrased (1) 366:26 replace (1) 399:12 replaced (1) 444:26 report (7) 363:8,9;369:14; 389:14;405:3; 441:25;487:16 REPORTER (2) 373:4;469:21 reporting (1) 407:17 reports (1) 378:16 representation (3) 381:12;410:26; 414:18 representations (1) 419:12 representative (1) 429:19 represented (2) 414:20;491:16 representing (1) 395:10 request (2) 470:18;471:7	requested (1) 382:5 requests (1) 481:23 required (6) 471:25;472:1,4,12, 13,14 reserve (5) 406:15;413:3; 416:19;468:17;469:3 reserving (1) 467:14 resident (1) 440:25 resolve (1) 406:16 Resource (5) 358:25,26;359:20; 377:3;409:14 Resources (4) 430:2,16;450:1; 480:8 responding (1) 392:12 response (3) 359:15;423:6; 429:19 responsibility (1) 371:14 responsible (1) 367:2 responsive (1) 400:15 rest (3) 440:25;446:4,5 results (3) 361:8;442:6,10 resume (7) 429:14;461:17,18; 462:8;476:10,21,23 resumes (1) 429:16 review (1) 484:12 reviewed (3) 391:7;416:10; 461:23 right (70) 354:2,12;357:11; 358:17;362:12; 368:3,23;372:20; 378:2,2;379:12; 381:19;386:21; 390:25;391:12; 406:5,5,9,14;407:26; 410:16,26;411:1; 412:15;413:26; 414:13,24;415:2; 416:18;417:6; 418:15,17;419:7,11; 420:8;424:16,23; 425:5;428:12; 433:11;438:26;	440:8,8,16,16;441:1; 442:16;443:23; 447:19;454:14; 455:8;456:7,7; 458:21;459:5;460:6; 463:17;464:17; 471:23;472:8; 477:14;483:18; 485:3,9;490:6,17,25; 491:1,25;492:4 RN (4) 389:10;424:19,19; 454:5 rock (1) 429:1 Rodriguez (2) 390:22,23 Room (21) 365:8,14,19; 379:15,17,18,20; 384:21;426:10; 448:14;451:21; 453:10;457:9,10,13; 473:9,10;480:21; 481:9;486:6;489:20 rooms (3) 480:10,12,14 rough (1) 360:11 roughly (2) 356:1;357:2 rules (1) 405:18 ruling (3) 380:23;381:13; 467:13 run (2) 433:18;444:23 runs (1) 393:9 Ruth (1) 393:21
S				
Saltikov (2) 361:24;362:22 same (40) 356:10;357:9; 359:13,14;360:24; 368:13;372:2; 378:18;380:22,23,23, 25;381:5;382:2; 383:3;414:2;425:9, 11,12;427:15,16; 431:16,20,21;434:10; 442:21;446:26; 448:4;452:6,8; 461:10;467:12; 468:4;470:14;471:4; 472:9;484:10; 488:21;492:5,13 Santo (3)				

434:4;445:26; 482:20 Saturdays (1) 382:4 saw (7) 376:11;402:24; 411:15,16;429:14; 431:18;477:22 scan (1) 484:7 SCHAEFER (394) 354:2,6,10,12,18, 22;355:9;356:14,16, 22,25;357:11,16; 358:14,17;361:15,18; 362:9;363:4,6,9,13, 15,17,21,23;364:3,8, 11,14,19,23;365:3,9, 12,14,17;366:5,10, 17,25;367:8,13,16, 23,26;368:3,15; 369:8,16,20,23; 372:15,18,21,24; 374:6,9,12;377:9,12, 16;379:2,5,12,16,18, 25;380:3,6,18,21,24; 381:4,8,13,19,22; 382:20,24,26;383:3, 6,24;385:9,13;386:9, 15,18,24;387:1,4,6,9, 12,16,18;388:11,14, 17;390:9;391:5,7,8, 12,24;392:1,5,8,10, 14,21,23;393:1,15; 394:18,21;395:4,6,9, 15,17,22,26;396:3, 12,17;397:1,4; 398:25;399:10,26; 400:2,14,22;401:9, 18,20;402:2,16; 403:1,3,8;404:4,6,11, 20;405:1,14;406:1,4, 6,14,24;407:9,15,19, 22,26;408:4,8,12,26; 409:20,23,26;410:4, 8,14,16,22,25; 411:18,20;412:6,11, 15,19,25;413:2,8,11, 16,26;414:4,8,14,18, 22,24;416:3,11,14, 18,24;417:5,21; 418:2,7,12,15,17,22, 26;419:3,7,11; 420:13,21,24,26; 421:3,11,13,17,19,21, 25;422:3,26;423:22, 25;424:2,13,18,21, 23;425:13,19,22,24; 426:22;427:8,12,17, 20,23,26;428:4,7,9, 12,20,25;431:6; 432:4,14,17,19,23; 433:1,4,7,11;434:18,	20;435:2;437:4,6,9, 12,14,20,25;438:5,8, 11,15,17,21,23,26; 439:16;440:4,6,9,23; 441:1;443:10,14,19, 23;446:16,19,22; 447:10,15,19;448:25; 449:3,6,9;450:8,11; 452:2,6,9,11,14,17; 453:12,16,24;454:1, 7,10,23,25;455:5,8; 456:1,7;459:3,5,8,12, 15,17,19;460:3,5,10, 19,21;461:3,6,8; 462:14,16;463:3,5, 12,14,17,23;464:2,7, 9,11,14,17,20;466:2, 6;467:4,6,11,16,19; 468:6,8,12,16;469:3, 15,18;470:5,7; 471:21,23;472:4,7, 11,14,17;474:1,6; 476:1,3;477:11,14, 17,20,25;479:14; 482:15,17;484:25; 486:7,10;490:1,3,6, 10,13,17,26;491:4,8, 13,18,19,25;492:4 schedule (13) 361:2;362:14,15, 17;363:25;364:2,22; 365:1,5;389:18; 422:5,8;436:25 scheduled (1) 362:18 schedules (1) 365:15 scheduling (1) 490:14 school (1) 459:2 scissors (4) 429:2;447:23,24; 473:13 scope (1) 458:15 scraping (1) 482:24 script (1) 442:16 scrub (1) 472:15 scrubs (14) 452:1,3,7,11;472:2, 3,5,6,8,9,13,20; 487:10,11 searching (2) 429:18;476:10 seat (2) 354:18;428:20 second (15) 358:3,12;387:20; 412:26;416:7,9;	417:2;425:3;432:5; 455:5;461:5;466:3; 468:19;469:2,4 secondary (1) 387:20 sections (1) 487:5 Security (3) 404:2;408:9; 416:12 seeing (1) 360:18 seeking (4) 396:9,21;414:12, 16 seeks (1) 445:20 seem (2) 399:2;412:7 self- (2) 440:25;443:20 self-defense (3) 443:5,6,7 send (9) 370:12;386:13,16; 409:12;448:4; 473:21,24;476:11; 486:2 sends (1) 365:7 sense (6) 386:6,6,10,10,11; 395:9 sent (9) 357:19,26;370:26; 371:2;388:2;430:5; 447:25,26;489:23 separate (13) 368:14;379:14,15, 17,20;395:7,10; 457:9;479:10,14,20, 22;483:14 separated (1) 457:10 serious (1) 435:10 S-e-r-n-a (1) 372:16 service (1) 388:14 services (1) 481:18 set (2) 410:12;466:22 sets (2) 363:25;364:1 setting (2) 440:1;441:20 several (1) 484:26 Shapiro (1) 456:4 She'd (1)	364:26 she'll (4) 391:21,22,23; 445:2 She's (25) 368:26;369:17,22; 389:8,8,10;390:12, 14;392:3,3,22;393:4, 24,24,26;394:2,4; 406:1,3,5,7;459:8,9; 481:26;482:2 shed (1) 381:15 sheet (2) 434:26;435:1 shift (4) 382:2,7,9;383:5 shirt (1) 379:1 shirts (1) 374:10 shouldn't (1) 410:7 shove (1) 417:9 show (6) 357:10,20;380:5; 395:22;454:9;469:21 showed (1) 395:24 showing (4) 399:20;454:15; 460:8;467:21 shows (1) 491:15 Siblings (2) 453:20;454:11 sick (6) 432:24,24;470:22, 22,26;471:7 side (3) 445:2;452:23; 463:8 sign (13) 377:6;378:17; 443:10,21;462:9; 465:1;470:3;475:5,9; 487:22,23,25;488:1 signature (19) 398:8;400:4,6; 408:23,24;411:6,26; 458:4;462:26; 464:23;469:11,12,25, 26;475:5;485:20; 486:20,22;487:1 signatures (1) 381:14 signed (21) 401:11;402:9,19, 22,24;407:12;409:1, 10,11,17,18;411:14; 416:16;419:4;425:8; 463:9;465:4;468:23;	475:6;486:1;487:22 signify (1) 445:2 signing (1) 378:21 signs (1) 451:10 simple (1) 406:16 single (1) 456:20 sit (1) 474:25 site (13) 374:2;377:25; 433:8;436:2;439:21, 22;440:8,16;441:22; 443:6;447:24; 450:16;456:5 sitting (1) 475:7 six (2) 412:22;443:2 sixth (2) 422:1,2 size (3) 437:17;453:8,10 sizes (1) 453:11 skin (5) 439:19,23;482:24; 484:2,21 smiles (1) 451:20 Soave (3) 361:24;365:23; 366:2 Soave's (2) 365:25;487:26 Social (3) 404:2;408:9; 416:12 software (8) 372:6;373:10; 375:9,11,15,22,23; 442:17 solution (1) 406:16 somebody (9) 386:3;387:2;391:9; 416:16;435:10; 441:10;488:23; 491:26;492:2 somebody's (1) 445:11 somehow (2) 406:12;437:22 someone (11) 392:16;397:12,14; 407:22;432:8,10,24; 447:4;452:2;453:10; 488:25 someone's (1)
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438:12 sometime (1) 419:23 sometimes (4) 378:26;433:17; 445:9;487:24 somewhere (1) 388:12 sores (1) 367:19 Sorry (44) 354:5;355:6; 357:15;359:8; 361:13;362:3,6; 363:22;376:1; 380:19;382:13; 384:7;385:17;391:2, 24;392:2,6;394:25; 395:17;400:24; 401:26;402:1,13; 403:10;414:7;416:6; 417:16;418:2; 419:26;424:6; 426:22;429:5; 433:12;452:16; 453:1,17;454:10; 460:10,12;463:14; 474:7;478:18; 479:12;486:12 sound (1) 372:19 source (1) 482:9 space (1) 425:17 Spanish (1) 361:8 speak (2) 487:15,18 speaking (3) 356:1;357:2; 364:12 speaks (3) 401:11;402:15; 407:9 specific (3) 435:9;440:12; 472:15 specifically (3) 433:8;478:1,4 specifics (1) 460:16 spell (3) 354:19;361:15; 428:21 spend (1) 364:5 spent (1) 459:17 spoke (1) 487:19 spurs (1) 434:6	St (1) 397:18 stack (1) 492:6 staff (5) 426:14;441:15; 442:4;452:26;453:2 stamp (10) 408:26;409:18,20; 411:13,15;464:5,7,8; 486:20;487:7 stamped (1) 416:17 stand (1) 366:23 standing (1) 440:26 start (9) 355:12;367:10,10; 383:13;386:6,11; 429:10;440:8;456:12 started (8) 362:3;392:17; 404:25;431:22; 466:19;470:2; 471:16;488:21 starting (2) 411:9;466:22 state (6) 354:19;370:5; 377:20;411:3; 428:21;469:23 stated (1) 400:26 statement (1) 469:8 stating (1) 404:26 stay (1) 382:8 step (1) 466:2 sterile (5) 440:2,4,13;448:1,2 sterilize (1) 473:13 sterilized (2) 371:26;447:24 Steve (1) 489:13 still (8) 358:15;385:11; 417:25;425:3;440:1; 443:26;477:21;484:7 stipu (1) 459:9 stipulate (1) 405:21 stipulated (3) 424:22;459:13,18 stipulating (1) 404:17 stipulation (1)	459:10 stockroom (1) 444:25 Street (22) 356:6,7,25,26; 359:1,7,20;383:11; 419:20;430:3,16,21; 432:1;450:6,7; 456:23;457:24; 475:12,17;479:9,23; 489:19 strike (8) 359:8;370:11; 373:19;417:13; 435:6;441:13;444:7; 485:17 stripes (2) 479:3;488:17 stub (1) 460:13 studies (1) 487:20 study (5) 441:18;442:2,5,9, 15 studying (1) 376:21 stuff (4) 432:6;434:4;438:1, 3 subject (3) 455:25;462:12; 469:1 submit (16) 355:14,21,22; 359:2;377:1;385:26; 386:25;389:19; 409:9,12;412:4; 429:16;434:8; 449:25;468:24; 485:22 submitted (5) 392:20;409:8; 412:2;461:17,21 submitting (1) 462:5 subpoenaed (2) 490:11,19 such-and-such (1) 442:6 suggest (2) 405:11;442:15 suggestion (1) 435:20 Suite (27) 355:4,8;361:11,12, 25;370:9,11;378:2,3; 379:20;383:26; 390:19;417:15,18; 429:9,10;430:26; 431:1;451:6;455:13; 457:16,18;480:10,21; 481:2;489:15,21	summarizes (1) 361:10 summer (1) 376:25 Sundays (1) 382:4 super (3) 421:18,19,21 superior (1) 390:6 supplied (1) 468:15 supplies (15) 371:12,16,18; 444:6;445:14,23; 446:4,5;447:15,16, 16;473:19,21; 474:16;481:23 Supply (4) 445:5,6;461:25; 489:22 suppose (1) 435:10 supposed (1) 422:21 sure (46) 362:4;364:25; 370:22;371:19; 376:9,11;379:3; 387:8,9;390:1,17; 391:3,4;394:15; 404:4,22;420:6,7; 422:18;425:20; 426:13;428:7; 429:15;430:26; 431:15;433:10; 440:8,15;443:9,16, 18;449:18;457:25; 461:6;463:5,10; 464:3,5;465:7; 467:16;476:1; 477:10;486:5;487:9; 491:4,8 surgery (1) 424:9 surgical (2) 436:14;484:11 sworn (2) 354:16;428:18 system (36) 372:6,8;384:5,8,10, 11,15,16,18,23,23; 385:3,4,6;386:3; 387:23;388:1; 426:19;427:3,10; 436:15;437:16; 438:24;448:11; 478:24;483:4,4,7,7, 12,15,23,25;484:3,6, 9	tag (3) 446:14,17,17 talk (2) 423:4;434:15 talking (5) 364:13;399:1; 418:23;419:1;423:23 tech (16) 378:2,5,8,11,16; 393:7;414:11,11,19, 20,25,25;424:16; 490:18;491:5,13 technical (2) 459:6,11 technically (1) 457:10 technician (7) 414:3,4;451:4,5,7, 11;457:8 technicians (2) 478:26;490:16 technique (1) 482:7 technologist (1) 393:19 technology (1) 373:21 techs (9) 378:8,12,23;379:6, 7,8,10,23;380:1 telephone (1) 423:4 tells (5) 364:19,24;369:18; 378:9;454:4 temp (1) 390:25 template (1) 445:23 temporary (1) 393:3 terminal (4) 372:26;373:10; 374:19;448:17 terms (5) 406:12,13;414:9; 484:18;490:20 test (3) 359:2;431:22; 449:12 testified (16) 354:16;401:11; 404:18,18;406:1,3,5; 420:14;425:16; 428:18;443:25; 459:9;487:13; 488:17,23;489:10 testify (7) 406:6;420:13; 445:24;466:12; 490:18,19;491:14 testimony (6) 392:6;404:24;
T				

414:7;418:5;447:10; 468:10 Thanks (2) 400:2;415:2 that's (84) 356:23;358:5; 362:8,11;364:17,18; 366:8,12,24;367:21; 368:19;369:16; 370:6;371:2,11; 378:11;379:8,14,26; 380:2,17;384:19,23; 385:4;387:18;388:8; 391:26;392:1,23; 397:17;399:3;400:5; 6,10,26,26;402:7; 403:24;408:12; 410:10;413:8,21,24, 24;414:3;416:14; 418:24,26;420:9; 421:15;423:1;424:1, 14;436:14,16,22; 438:15,22,23;444:1, 6;445:26;447:8; 454:12;455:16; 458:6,18;459:5; 463:13,16;465:25; 467:23;469:12,26; 479:8;482:8,24; 483:6,8;485:6;487:1; 489:26;490:10;492:6 therapy (3) 436:5;439:11; 450:23 there's (32) 363:1;381:2; 383:26;384:1,5; 386:24;395:7,11; 400:14;405:10; 412:18;414:24; 416:22;420:7; 436:26;439:25; 444:24;445:1; 447:10;457:10,13; 472:19;476:12; 478:19;480:2,15,18; 482:7;483:24; 488:14;489:13;491:7 Therefore (2) 381:12;385:7 They'll (7) 434:23;435:14,23; 453:22;476:11; 481:20;490:26 they're (17) 362:15;363:10; 364:9,10,16;385:22; 412:14;414:23; 422:15;423:15,18; 436:6,8;437:25; 447:25;450:3,20 they've (2) 427:12;448:9	thinking (1) 443:16 third (1) 483:15 though (4) 380:25;381:16; 399:11;413:18 three (4) 362:23;376:11; 398:9;462:4 throw (2) 380:25;476:20 thrown (1) 476:23 Thursday (3) 365:26;467:1; 490:22 tickets (1) 448:22 till (1) 478:9 times (6) 370:3;376:12; 382:5;390:3;444:26; 446:8 tips (2) 447:23;484:19 title (3) 393:19;429:5; 477:18 Today (3) 354:6;490:7,8 today's (1) 454:4 together (3) 481:6,25;484:8 told (6) 356:10;400:17,25; 466:10;471:6;487:10 tomorrow (9) 416:8;452:12; 468:19;490:9,18,20, 24;491:1;492:9 Tonia (1) 489:13 took (2) 376:22;430:2 tools (1) 370:26 top (11) 358:1,6;377:4; 390:16;396:11; 403:9;407:5;411:12; 434:14;485:9;486:22 topical (1) 482:22 totally (1) 423:1 touch (2) 438:24;484:20 tour (2) 360:4,11 Tower (1)	393:23 trained (2) 375:20;420:21 training (27) 375:9,14,17,22,23, 25;376:4,6,10; 419:19;420:1,2,3,4,4, 6,20;421:1,2;442:17, 19,23;443:1;475:11; 478:23,25;479:5 transfer (1) 373:25 translate (1) 361:7 transmitting (1) 386:19 treat (4) 367:11,18,20,22 treating (2) 424:7;441:10 treatment (14) 367:20;368:6,8; 424:4;435:8,25,25; 436:6;438:12; 439:11;450:25; 451:2,2;473:23 treatments (3) 435:9;436:1;439:2 treats (1) 366:12 trouble (2) 452:12,14 truck (1) 446:14 true (3) 358:9;389:20; 414:2 try (4) 399:15;416:5; 419:9;436:14 trying (9) 364:21;392:10; 412:19;425:11,12; 433:23;437:19; 482:16;492:6 Tuesday (2) 365:25;492:12 tuition (5) 376:17;377:5,6; 448:21;449:25 twice (3) 362:19;369:13; 459:19 Two (13) 357:4;377:8,18; 389:6;393:4;395:7, 10;419:17,18,18; 420:4;452:21;489:13 type (6) 367:11,13,14; 441:3;472:15;479:24 typed (2) 397:15;445:1	types (4) 432:20;434:6; 435:9;439:26 typing (1) 461:19 U U-11 (1) 460:8 ulcers (1) 367:19 ultimately (1) 400:10 Um-hum (10) 355:10;358:2; 363:14;365:13; 372:17;373:3; 377:22;421:18; 443:7;485:10 under (7) 425:6,17;452:21; 453:14;458:18; 487:3,7 underarm (1) 472:22 undergo (3) 359:9;431:22; 450:25 undermining (1) 484:21 understood (2) 466:7,19 uniform (2) 383:19;451:24 uniforms (3) 457:6;471:26; 472:1 Union (20) 357:12,13;358:6, 12,12,13,17;380:7, 20;381:20;395:22; 405:22,23;410:13; 414:12,16;454:15; 466:13,15,17 Union's (5) 357:14,21;358:19; 380:8;381:21 unit (10) 366:9;367:6,7; 368:12,18;379:6; 392:20,26;414:26; 466:20 United (1) 480:1 unknown (1) 391:13 unless (5) 429:1;438:3; 465:26;482:2;483:24 unlimited (1) 377:10 unofficial (1)	453:19 unredacted (1) 405:12 up (35) 355:6;361:6; 369:18;370:20,21,23, 25;371:1;374:22; 375:2;377:14; 381:17;382:23; 410:11;413:11; 414:5,6;425:3;427:3, 10,14,16,24;432:4; 436:10;441:16; 443:10,21;447:2; 449:17;450:10; 476:11,17;491:8; 492:6 upgraded (1) 483:26 uploaded (1) 429:14 upon (1) 490:21 UPS (1) 474:19 use (33) 372:6;373:10,13; 374:26;375:4; 378:22;384:11; 385:4;388:23; 409:15;427:15; 434:6,10;437:2,8,10, 11,12,13;438:8,10; 444:6;445:17,22; 448:11,22;478:23; 483:8,16,18,20; 484:18,19 used (8) 384:19,24;410:6; 426:19;445:15; 448:19;472:25;474:5 user (1) 355:19 using (2) 445:13;476:23 usual (1) 417:10 usually (17) 373:24;435:13; 436:13,14,15;441:19; 442:13,14;444:24; 445:2,21;448:14; 450:3;451:16;475:9; 476:20;481:18
V				
vac (1) 436:4 Vacarri (1) 453:4 vacation (6) 389:16,18;470:18;				

471:7;482:2;489:22 Vaccari (5) 430:6,7;473:1,2; 488:4 vacs (1) 439:10 vague (1) 444:7 values (1) 487:16 various (1) 416:13 vascular (14) 441:18,20,22,22, 25;442:2,5,6,9,14; 456:4;487:18,18,20 veer (1) 367:9 veins (1) 441:23 vendors (5) 473:19,21,22,24; 474:11 verbal (3) 359:15;471:21,22 verification (1) 411:23 verify (1) 468:25 Vesey (1) 472:23 view (1) 392:26 vigilant (1) 367:9 visit (3) 360:2;385:16,18 visited (2) 369:25;370:3 visiting (1) 481:18 visits (1) 422:5 voice (1) 355:6 VOIR (6) 404:7;409:3,4; 425:14;463:4,6	walks (1) 448:7 wants (1) 381:1 warning (3) 471:15,17,19 wasn't (5) 362:4;380:2; 382:26;409:15; 410:17 way (7) 400:15,16;401:9; 404:13;425:12,12; 491:20 we'd (1) 398:16 we'll (12) 362:19;386:12; 391:12;398:18; 413:17;416:20; 442:15;444:26; 448:23;469:1;482:8; 491:18 we're (18) 367:3;368:21; 385:7;391:21,23; 395:6,12;404:17; 413:16;416:4;419:1; 437:19;443:20; 468:4;472:13; 490:18;492:4,7 we've (4) 368:16;403:14; 404:1;459:18 wear (19) 378:26;383:19; 451:24;452:3,4,5,8; 457:5;471:25;472:1, 4,6,8,9,13,15;485:4; 487:10,11 wearing (2) 374:7,9 wears (1) 452:6 website (6) 355:15,18;377:2; 476:15;477:22,23 Wednesday (5) 358:1,6;366:1; 492:5,8 week (19) 362:19;369:13; 393:4;420:10; 451:14,15,16;453:17, 18,19,21;454:3,11; 457:22;474:13,14,16; 481:19,20 weekend (4) 382:21;383:4,5; 426:17 weekly (1) 444:24 weeks (3)	357:4;393:4; 420:20 Wesley (7) 431:26;432:3; 442:20,26;444:5; 479:7,21 West (41) 355:1;359:17,24; 363:26;374:19; 375:18;376:7; 380:16;383:8;384:3, 25;385:1,5,16,19; 386:1;390:4,19; 401:16;427:3;429:6, 9,11;430:5,25; 455:13;456:13,18,26; 457:3,5;471:3; 473:25;474:10; 478:8,13,21;480:11; 481:4;483:23;491:17 what's (22) 366:17;368:25; 390:26;399:2,7,20; 421:21;434:1;437:4, 6,14;440:11;441:20; 450:22;451:15; 460:1,8;481:24; 482:3,15;483:11,11 whatever's (1) 434:26 Whereupon (16) 354:13;391:7; 395:24;396:1;400:1; 413:1;415:3;428:8, 15;454:16;455:6; 461:7,23;476:2; 489:25;492:10 whip (1) 417:9 Who's (10) 371:22;391:25; 407:15;418:3; 445:10;453:9;475:3; 490:14;491:11,16 whole (4) 425:18;433:16; 440:7,11 whose (1) 400:4 WILCOX (40) 356:15;379:20; 395:18;398:14,19,21, 26;399:1,6;403:2; 405:24;406:3,5,9; 409:25;414:6,13,17, 20,23;416:25;417:2; 428:4,5,26;454:15, 18,24;459:13,18; 460:26;461:10; 490:8,12,15,21; 491:11,15,23;492:1 willing (1) 381:16	wish (1) 435:10 withdraw (1) 362:4 Withdrawn (2) 447:20;455:3 withholding (5) 408:20,21;411:3,4; 469:8 within (1) 480:21 witness (178) 354:8,15,20;355:8, 10;356:24,26;361:14, 17,19;362:6;363:5,7, 11,14,22;364:9,23, 25;365:11,13,16; 366:22;367:11,18,25; 368:1;369:18,22; 372:17,23;373:5; 374:8,11;376:2; 377:11,14;381:22; 382:23,25;383:2,5, 26;385:11;386:11,16, 23,26;387:3,5,8,11, 14;388:13,16; 391:26;393:16; 394:20;396:15; 400:15;401:11; 404:21;405:4,16,20; 406:25;407:21,24; 409:2,22;413:9; 417:6;418:20,23; 419:9;420:13,23,25; 421:2,12,18,20,22; 422:1;423:24,26; 424:17,20;425:21,23; 426:26;427:11,15,19, 22;428:2,3,10,17,23; 431:8;432:16,18,22, 25;433:2,6,9;434:19; 435:4;437:5,11,13, 16,24;438:7,10,14, 16,19,22,25;439:17; 440:5,7,24;443:13, 16,22;446:18,21,24; 448:26;449:5,8; 450:10;452:4,8,10, 13,16;453:14,21,26; 454:3,12,15,16; 456:4;461:23; 463:13,16;464:5,8, 10,12,16,19,21; 468:14,16;471:22; 472:6,10,13,16; 474:3;475:23; 477:13,15,19,24; 479:17;486:9;490:4, 5,9;491:21 witnesses (4) 490:7,8,19,23 won't (1) 452:14	wondering (1) 413:9 Woodside (1) 397:20 words (2) 416:22;476:23 wore (1) 452:11 work (60) 355:1,3,4,8,9; 359:23,26;360:1; 361:11;362:25; 374:26;377:5; 378:23;381:26; 382:2,4,7,9,21;383:8, 10,16;385:26; 388:19;389:2,4,12; 391:15,17;393:26; 394:6;398:1;417:14, 17;418:20;420:11; 421:5,17;425:26; 426:17;429:8,9; 442:21;447:22; 448:22;452:12,20; 455:20;456:22; 471:26;475:23; 481:25;482:12,14; 483:13;487:13; 488:13;489:14,15,23 worked (5) 397:18,20;456:17; 465:21,23 workers (1) 414:23 working (18) 359:16;383:13; 400:8,17;401:15; 429:10;430:24; 438:3;456:5,12; 465:10,14;475:16; 478:7,12,15;485:4; 491:12 works (8) 370:11;371:23; 384:22;386:2; 418:25;446:11; 490:16;491:16 worth (1) 377:14 wouldn't (1) 465:26 Wound (94) 355:4;359:23; 360:26;361:7; 362:18,19,21;363:25; 364:6;366:11,12; 367:10,17,19;368:5; 377:23;379:20; 382:14,17;389:2,4; 391:16,17;392:4,26; 393:16;422:9; 423:26;424:9; 425:26;426:9;
W				
W- (1) 410:12 W-4 (5) 408:14,16,17,20; 469:8 Wait (4) 363:16;408:9,9; 455:16 waiting (1) 426:5 walk (2) 449:26;480:15				

429:20;430:8;435:8, 11,19,22;436:2,3,4; 437:2,13,14,14,17,21, 21;438:2,20;439:10, 19;442:13;444:9; 445:17,21;450:13; 455:26;456:2;457:2; 458:20,21,24,26; 470:25;473:11,23; 478:1,3,16,17,19,20; 481:19;482:6;483:4; 6,8,9,9,12,14,20,23; 484:2,3,6,7,9,20,23; 488:10,14,15,15 wounds (10) 367:20,22;393:17; 433:16,16;435:7; 437:11;441:21; 445:16;483:10 wrap (6) 413:11;436:3; 482:3,4,7,11 write (2) 397:12,13 written (1) 471:21	479:3;488:17 yesterday (1) 453:20 York (59) 355:15,18;356:23; 364:20;365:20; 371:25;374:7,8,10, 14;377:1;378:23,26; 379:9;383:10,17; 395:11;411:3; 419:20;420:5,8,12, 22;423:26;425:7; 426:15,19;427:12; 446:14,18;448:15; 451:12;452:22,24; 453:18;455:20,26; 456:23;457:6; 459:26;469:23; 472:19,24;473:3,17; 474:11,16,23;475:12, 17,19,24;476:13,18; 477:23;479:6,26; 481:11;488:19 you'd (1) 357:2 you're (21) 358:14;376:21; 384:12;387:9;395:4; 398:25;401:10; 416:6;419:5;422:21; 423:22,23;432:12; 438:9;442:10;458:6; 464:3,14;470:22; 471:11,25 you've (8) 362:14;363:13; 366:14;383:16; 394:18;420:11; 435:7;438:18			
X				
x- (2) 414:18;450:18 Xeroxing (1) 461:11 x-ray (36) 378:2,5,8,8,10,12, 16,23;379:5,6,7,8,10, 23;380:1;414:2,4,11, 11,20,25,25;450:21, 24;451:1,3,8,11; 457:8,9,13,20; 490:15,18;491:5,13 x-rays (6) 377:23;450:14; 457:9,26;458:3; 489:16 Xylocaine (1) 445:26				
Y				
Yale (1) 407:15 year (9) 376:12;377:13; 443:9,9;444:2;449:4, 18;451:18;452:22 yearly (1) 448:22 years (4) 377:8,18;452:21; 462:4 yellow (4) 394:7;446:20;				

In The Matter Of:
NEW YORK METHODIST MSOB of Kings
County and
1199 SEIU, UNITED HEALTHCARE
WORKERS EAST

Vol. 5
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Burke Court Reporting, LLC
1044 Route 23, Suite 316
Wayne, NJ 0747
(973) 692-0660

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Page 499

BEFORE THE
NATIONAL LABOR RELATIONS BOARD

In the Matter of:

NEW YORK METHODIST/MSO OF KINGS Case No. 29-RC-172398
COUNTY, LLC,

Employer,

and

1199 SEIU, UNITED HEALTHCARE
WORKERS EAST,

Petitioner.

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Page 500

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Page 502

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<p style="text-align: right;">Page 503</p> <p>1 PROCEEDINGS 2 (Time: 9:14 a.m.) 3 HEARING OFFICER SCHAEFER: <small>On the record.</small> 4 (Whereupon, 5 TANIA HENRIQUEZ, 6 was called as a witness by and on behalf of Petitioner and, 7 after having been duly sworn, was examined and testified as 8 follows:) 9 HEARING OFFICER SCHAEFER: <small>(Obj. See a and right here)</small> 10 THE WITNESS: Thank you. 11 HEARING OFFICER SCHAEFER: <small>(Obj. Let me just state for</small> 12 the record that it's April 12th, convening in Case 13 29-RC-172398. The hearing officer for the Board is Erin 14 Schaefer. 15 All right, so we're going to continue with Petitioner 16 witnesses, Ms. Wilcox. 17 MS. WILCOX: Yes. 18 DIRECT EXAMINATION 19 BY MS. WILCOX: 20 Q Can you please state your name for the record? 21 A Tania Henriquez. 22 Q Okay. Can you spell it? 23 A T-A-N-I-A H-E-N-R-I-Q-U-E-Z. 24 Q And by whom are you employed? 25 A New York Methodist Hospital.</p>	<p style="text-align: right;">Page 505</p> <p>1 Park West? 2 A Well, my supervisor's still in the hospital, I answer to 3 him, Al Uceriello. 4 MR. FRANK: I'm sorry, what is that name? 5 HEARING OFFICER SCHAEFER: <small>(Obj. See a and right here)</small> 6 it or? 7 THE WITNESS: No, sorry. 8 HEARING OFFICER SCHAEFER: <small>(Obj. See a and right here)</small> 9 THE WITNESS: Uceriello. 10 HEARING OFFICER SCHAEFER: <small>Uceriello?</small> 11 THE WITNESS: Yes. 12 HEARING OFFICER SCHAEFER: <small>(Obj. Let me state for the</small> 13 with -- 14 THE WITNESS: Yes. 15 HEARING OFFICER SCHAEFER: <small>-- is "U"?</small> 16 THE WITNESS: Start with a "U." 17 HEARING OFFICER SCHAEFER: <small>(Obj. See a and right here)</small> 18 THE WITNESS: Al. 19 HEARING OFFICER SCHAEFER: <small>Thank you.</small> 20 BY MS. WILCOX: 21 Q And what department is he in? 22 A Radiology. 23 Q Okay. Who does he report to? 24 A Mary Rowland. She's the assistant director. 25 Q Okay. And who's the director?</p>
<p style="text-align: right;">Page 504</p> <p>1 Q And in what position? 2 A Radiology technologist. 3 Q And when did you begin working New York Methodist 4 Hospital? 5 A October 2003. 6 Q In what position? 7 A Receptionist in the nuclear medicine department. 8 Q Okay. And what was your next position? 9 A I was the clerk in the file room. 10 Q Okay. And file room of what? 11 A Radiology. 12 Q Okay. And did there come a time that you became a 13 radiology technologist? 14 A Yes. In 2006, I started X-ray school within the hospital 15 and I graduated in 2008. 16 Q Okay. And are you -- have you been covered by the 1199 17 contract at New York -- New York Methodist Hospital? 18 A Yes. 19 Q Okay. And that's been from the beginning of your 20 employment with New York Methodist Hospital? 21 A Yes. 22 Q Okay. Now, where are -- where are you currently assigned 23 to work? 24 A At 1 Prospect Park West. 25 Q Okay. And who is your supervisor at 1 Park -- Prospect</p>	<p style="text-align: right;">Page 506</p> <p>1 A Anthony Mungo. 2 Q Okay. And what hours are you assigned to work at -- 3 MR. FRANK: I'm going to object to this line of 4 questioning. I don't see how it has any relevance to the 5 two -- to the unit involved in this proceeding. This case 6 involves wound care. This employee has no connection to wound 7 care. 8 MS. WILCOX: Well, I -- the testimony will -- 9 HEARING OFFICER SCHAEFER: <small>(Objection sustained)</small> 10 there. 11 THE WITNESS: -- get there, yes. 12 MR. FRANK: Are you representing she's involved in wound 13 care? 14 MS. WILCOX: Yes. 15 BY MS. WILCOX: 16 Q So there -- when did you start -- what hours are you 17 working, sorry? 18 A 8 to 4, Monday through Friday. 19 Q Okay. And approximately how long have you worked at -- 20 that schedule at 1 Prospect Park West? 21 A It's been approximately two years. 22 Q Okay. And how did it come about that you started working 23 there? 24 A The previous technologist that worked there, we were told 25 that she needed help by our supervisor, and we started rotating</p>

<p style="text-align: right;">Page 507</p> <p>1 at one -- different techs from the hospital. 2 Q Okay. 3 A Started rotating there. 4 Q And your supervisor at that time? 5 A Al Uceriello. 6 Q Okay. And when you rotated there, what -- what was your 7 work schedule at that time? 8 A I worked on Monday, Tuesday and Thursday 10 to 6. 9 Q And did you -- and did you continue working at the 10 hospital at that time? 11 A Yes, on Wednesdays and Sundays. 12 Q Okay. And what hours did you work then? 13 A 8 to 4. 14 Q Now, what are your responsibilities working at 1 Prospect 15 Park West? 16 A I X-ray the patients from the different suites; Suite B, 17 Suite C, Suite D, and sometimes from Suite A if they have any 18 patients that they need X-rays for. 19 Q Okay. And what -- what are your responsibilities -- I'm 20 sorry. 21 In Suite B, who -- what kind of patients -- what's in 22 Suite B? 23 A Foot and Ankle and the Wound Care Center. 24 Q And in Suite C? 25 A Urology.</p>	<p style="text-align: right;">Page 509</p> <p>1 HEARING OFFICER SCHAEFER: Okay. 2 BY MS. WILCOX: 3 Q And with -- and is that procedure any different with 4 respect to the other suites? Suites A and D? 5 A Yeah. In C and D they bring me all the paperwork to 6 get -- I don't have to request any extra from them. 7 Q Okay. What about Suite A? 8 A They bring me the paperwork, as well. 9 Q Okay. Now, when you go to work at 1 Prospect Park West, 10 where -- how do you get to the X-ray room? 11 A I enter through Suite B. 12 Q Okay. And where do -- do patients ever have to wait for 13 you to do an X-ray on them? 14 A No. They're -- I mean, I start when they open. 15 Q Okay. And then are there -- is there a waiting area for 16 patients? 17 A Yes. For Suite B, they're -- they have a reception area, 18 right near the reception area, the entrance. But the patients 19 that are already in the room, they'll either wait inside the 20 room or they have a few chairs right outside the -- their 21 rooms. And near -- well, near the X-ray room where they sit. 22 Q Now, when you say "rooms," what are you referring to? 23 A Patient rooms. They have like different rooms inside 24 Suite B where they see the patients. 25 Q Now, are you responsibilities as an X-ray -- I'm sorry,</p>
<p style="text-align: right;">Page 508</p> <p>1 Q Okay. And Suite D? 2 A The Spine and Arthritis Center. 3 Q And you said Suite A, as well? 4 A It's Pediatrics. 5 Q Okay. 6 HEARING OFFICER SCHAEFER: <small>over the page and start</small> 7 THE WITNESS: And arthritis center. 8 HEARING OFFICER SCHAEFER: Okay. 9 BY MS. WILCOX: 10 Q Now, who do you get work? How do you know that you have 11 to do an X-ray on a patient? 12 A We have a box. My X-ray room is inside Suite B, and 13 there's a box, and whoever needs an X-ray, then the put the 14 request in there. In that box. 15 Q "They" being who? 16 A From Suite C, they'll come and drop off the paperwork in 17 the box. Or they'll hand it to me if I don't have anybody else 18 in the room. 19 From Suite B, they'll just give me the script and I go 20 over to the reception area and the girls in the front would 21 print out the demographics for the patient and insurance 22 information and so then I can X-ray the patient. 23 HEARING OFFICER SCHAEFER: <small>over the page and start</small> 24 like a prescription for it? 25 THE WITNESS: Yeah.</p>	<p style="text-align: right;">Page 510</p> <p>1 radiology technologist different at Prospect Park West, as 2 opposed to what you do at the hospital? What you did at the 3 hospital? 4 A Yes. Well, as far as getting paperwork together, in the 5 hospital, everything, it's in Cerner. So the request is in 6 there, transporter gets the patient, then we X-ray the patient. 7 And in here we get paperwork what -- that I have to send to the 8 hospital at the end of the day. But I have to request it from 9 the girls in the front. 10 Q Now, how do you send it to the hospital? 11 A In an interoffice. 12 Q Okay. Someone comes and picks it up? 13 A Yes. 14 Q And do you know who picks it up? 15 A Mark. That's his name. I don't know his last name. His 16 name is Mark. 17 Q Okay. And do you know where he works? 18 A At the hospital, I'm assuming. 19 Q Um-hum. Now, would other -- is there more than one way to 20 get into the X-ray room at -- in Suite B? 21 A There's another door but I don't have -- I was never given 22 a key to the other door, so I enter through Suite B. 23 Q Okay. Now, how do you record your time while you're 24 working at 1 Prospect Park West? 25 A I go to one of their computers to sign in.</p>

<p style="text-align: right;">Page 511</p> <p>1 Q Computer where?</p> <p>2 A In the reception area for Wound Care, Foot and Ankle.</p> <p>3 Q Okay. And that's in Suite B?</p> <p>4 A Yes, in Suite B.</p> <p>5 Q Okay. And does anyone -- are there any other --</p> <p>6 HEARING OFFICER SCHAEFER: <small>Yes, as far as I know.</small></p> <p>7 system to sign in?</p> <p>8 THE WITNESS: A Kronos.</p> <p>9 HEARING OFFICER SCHAEFER: <small>Okay. Go ahead.</small></p> <p>10 MS. WILCOX: Thank you.</p> <p>11 BY MS. WILCOX:</p> <p>12 Q And are there any other employees who are working with you</p> <p>13 who do X-rays --</p> <p>14 A Yes, my --</p> <p>15 Q -- of the patients?</p> <p>16 A -- co-worker Steven Aceto.</p> <p>17 Q Okay. And what hours does he work?</p> <p>18 A 10 to 6.</p> <p>19 Q Okay. And what days does he work with you?</p> <p>20 A Monday, Tuesdays, Thursday, and Friday.</p> <p>21 Q Okay. And does he have -- does he work -- does he also</p> <p>22 work -- is he employed by New York Methodist Hospital?</p> <p>23 A Yes.</p> <p>24 Q And does he work any hours at the hospital?</p> <p>25 A Yes. He alternates Saturdays and Sundays.</p>	<p style="text-align: right;">Page 513</p> <p>1 when you were working directly at the hospital?</p> <p>2 A Yes.</p> <p>3 MS. WILCOX: I have nothing further.</p> <p>4 HEARING OFFICER SCHAEFER: <small>Thank you very much.</small></p> <p>5 THE WITNESS: Well, it -- we have to have it on us at all</p> <p>6 times so that patients know --</p> <p>7 HEARING OFFICER SCHAEFER: <small>Do you use it --</small></p> <p>8 THE WITNESS: -- who we are.</p> <p>9 HEARING OFFICER SCHAEFER: <small>Do you use it --</small></p> <p>10 open doors or --</p> <p>11 THE WITNESS: No. In the hospital, yes. But not there.</p> <p>12 HEARING OFFICER SCHAEFER: <small>Okay, thank you.</small></p> <p>13 CROSS-EXAMINATION</p> <p>14 BY MR. FRANK:</p> <p>15 Q Do you have your ID with you?</p> <p>16 A Yes.</p> <p>17 Q Can I see it, please?</p> <p>18 A I left my badge in the chair.</p> <p>19 THE WITNESS: Thank you.</p> <p>20 MR. FRANK: Can we make a picture of that ID?</p> <p>21 HEARING OFFICER SCHAEFER: Yeah.</p> <p>22 MR. FRANK: What? Front and back?</p> <p>23 HEARING OFFICER SCHAEFER: Yeah.</p> <p>24 (Pause.)</p> <p>25 HEARING OFFICER SCHAEFER: <small>Can I skip this?</small></p>
<p style="text-align: right;">Page 512</p> <p>1 Q Okay. And that's not at 1 Prospect Park West?</p> <p>2 A No.</p> <p>3 Q Okay. So he's working at the radiology department?</p> <p>4 A Yes.</p> <p>5 Q Of the hospital?</p> <p>6 A Yes.</p> <p>7 Q And does his -- is his supervisor also AI?</p> <p>8 A Yes.</p> <p>9 Q Okay. And are there any other -- any other employees who,</p> <p>10 from the New York Methodist Hospital, who work with you at 1</p> <p>11 Prospect Park West?</p> <p>12 A If needed, other techs from the hospital will rotate</p> <p>13 through 1 Prospect Park West to cover.</p> <p>14 Q Okay. And that -- they're assigned by radiology</p> <p>15 department at New York Methodist Hospital?</p> <p>16 A Yes.</p> <p>17 Q By your supervisor?</p> <p>18 A By my supervisor, yes.</p> <p>19 Q And do you have a -- an ID card from New York Methodist</p> <p>20 Hospital?</p> <p>21 A Yes.</p> <p>22 Q And does it have a -- what colors -- color stripe is on</p> <p>23 it?</p> <p>24 A Blue.</p> <p>25 Q Okay. And does that -- is that the same ID that you had</p>	<p style="text-align: right;">Page 514</p> <p>1 Here you go, thanks.</p> <p>2 MR. FRANK: <small>Can we mark the ID photograph that you have as</small></p> <p>3 a future exhibit?</p> <p>4 HEARING OFFICER SCHAEFER: Yes.</p> <p>5 MR. FRANK: I would like to offer it.</p> <p>6 HEARING OFFICER SCHAEFER: <small>Not marked as such.</small></p> <p>7 (Employer's MSO-19 marked.)</p> <p>8 MS. WILCOX: It both -- did you --</p> <p>9 HEARING OFFICER SCHAEFER: <small>Could you mark it, Mr. Frank?</small></p> <p>10 do what we did last time, and I'll just print the pictures,</p> <p>11 show them to you guys, and then -- well, it's pending. I'm not</p> <p>12 moving it in now.</p> <p>13 MS. WILCOX: No, I understand.</p> <p>14 HEARING OFFICER SCHAEFER: <small>Thank you very much.</small></p> <p>15 chance to see it.</p> <p>16 MS. WILCOX: But I just didn't know, what you took a --</p> <p>17 did you take both sides?</p> <p>18 HEARING OFFICER SCHAEFER: Yeah.</p> <p>19 MS. WILCOX: Yeah.</p> <p>20 HEARING OFFICER SCHAEFER: <small>Could you mark it, Mr. Frank?</small></p> <p>21 front ID. Yeah, sorry about this. Just I took the front and</p> <p>22 back of just the first card. The second card is the same, it's</p> <p>23 the codes and --</p> <p>24 MS. WILCOX: Thank you.</p> <p>25 HEARING OFFICER SCHAEFER: <small>Thank you very much.</small></p>

<p style="text-align: right;">Page 515</p> <p>1 Safety, which is -- on the last set I did include. But --</p> <p>2 MS. WILCOX: If you wouldn't mind taking both?</p> <p>3 HEARING OFFICER SCHAEFER: All right.</p> <p>4 MS. WILCOX: Thank you.</p> <p>5 CROSS-EXAMINATION (continued)</p> <p>6 BY MR. FRANK:</p> <p>7 Q When you worked at the hospital, did all of the hospital</p> <p>8 employees have an ID card like yours with a blue backing on it?</p> <p>9 A Yes.</p> <p>10 Q Now, when you worked at the hospital, that was on 6th</p> <p>11 Street?</p> <p>12 A Yes.</p> <p>13 Q And what -- how long did you work there?</p> <p>14 A Since '03. It's been over 10 years.</p> <p>15 Q Okay. And when you worked in the -- throughout the whole</p> <p>16 time that you've worked for the hospital, have you been</p> <p>17 represented by 1199?</p> <p>18 A Yes.</p> <p>19 Q Now, was there a radiology practice at 1 Prospect Park</p> <p>20 West? Doctor's practice?</p> <p>21 A A doctor's -- I'm sorry, what do you mean?</p> <p>22 Q Well, okay. Do you know when the X-ray office was setup</p> <p>23 on 1 Prospect Park West?</p> <p>24 A I don't have the exact date. My co-worker that worked</p> <p>25 there, she said she was there since they opened the office, but</p>	<p style="text-align: right;">Page 517</p> <p>1 Q And how many X-rays a week would you say you take for</p> <p>2 spine and arthritis?</p> <p>3 A It's a lot.</p> <p>4 Q What, hundreds?</p> <p>5 A Yeah, I would say. Yeah. Their doctors could have</p> <p>6 between 20 to 40 patients, depending on the day.</p> <p>7 Q Okay. And how many doctors, if you know, are in the spine</p> <p>8 and arthritis suite?</p> <p>9 A One-, two-, three-, four-, five-, six -- I believe it's,</p> <p>10 no, like seven doctors.</p> <p>11 Q And do you know how many physicians are in the pediatric</p> <p>12 suite?</p> <p>13 A No.</p> <p>14 Q And how many X-rays do you take for the wound care?</p> <p>15 A It varies. It will depend. So it could be about 10 to</p> <p>16 15.</p> <p>17 HEARING OFFICER SCHAEFER: A week?</p> <p>18 THE WITNESS: No, a week is more than that, maybe 40, 50.</p> <p>19 Depends.</p> <p>20 HEARING OFFICER SCHAEFER: _____</p> <p>21 was day -- per day? Sorry, I just want to clarify.</p> <p>22 THE WITNESS: Per day. It will be a day.</p> <p>23 BY MR. FRANK:</p> <p>24 Q Now, do you take MRIs?</p> <p>25 A No.</p>
<p style="text-align: right;">Page 516</p> <p>1 I don't know the exact time when it was open.</p> <p>2 Q Approximately when was it open?</p> <p>3 A I would say may seven years ago.</p> <p>4 HEARING OFFICER SCHAEFER: <small>is that a good guess?</small></p> <p>5 THE WITNESS: It's a guess because I wasn't there from the</p> <p>6 beginning, so I'm not sure.</p> <p>7 HEARING OFFICER SCHAEFER: All right.</p> <p>8 BY MR. FRANK:</p> <p>9 Q Okay, and when did you go there?</p> <p>10 A 2013 I believe we started rotating or 2014.</p> <p>11 Q And would it be accurate to say that you take X-rays for</p> <p>12 the pediatric group when they need them?</p> <p>13 A It -- when they need them. It's very rare, but I do when</p> <p>14 they need them.</p> <p>15 HEARING OFFICER SCHAEFER: <small>is that Suite C?</small></p> <p>16 THE WITNESS: A.</p> <p>17 HEARING OFFICER SCHAEFER: A.</p> <p>18 BY MR. FRANK:</p> <p>19 Q And do you take X-rays for spine and arthritis?</p> <p>20 A Yes.</p> <p>21 Q And where is that located?</p> <p>22 A In Suite D.</p> <p>23 Q And how often does that occur?</p> <p>24 A Very often. They have doctors there Mondays, Tuesday,</p> <p>25 Thursday, and Friday.</p>	<p style="text-align: right;">Page 518</p> <p>1 Q Just simple X-rays?</p> <p>2 A Simple X-rays, yeah.</p> <p>3 Q And do you also take X-rays for the urology practice?</p> <p>4 A Yes.</p> <p>5 Q And how many -- do you take many for them?</p> <p>6 A It could be 7 to 10 a day. All depends on the day, as</p> <p>7 well.</p> <p>8 Q Well, would it be accurate to say that you take X-rays for</p> <p>9 all of the physician practices in 1 Prospect Park West?</p> <p>10 A Yes.</p> <p>11 Q Other than taking X-rays, do you perform any</p> <p>12 responsibilities in the wound care practice?</p> <p>13 A If the girls aren't there, sometimes I would translate for</p> <p>14 the doctors for a patient. Other than that, no.</p> <p>15 Q Do you perform any duties, other than taking X-rays in</p> <p>16 urology?</p> <p>17 A No.</p> <p>18 Q Do you receive your benefits through 1199?</p> <p>19 A Yes.</p> <p>20 Q Now, you referred to a previous tech needing help. Who is</p> <p>21 that individual?</p> <p>22 A Her name is Deborah Keane. It's her maiden last name. I</p> <p>23 don't know her married name.</p> <p>24 Q She's -- does she still work in 1 Prospect Park West?</p> <p>25 A No, she resigned.</p>

<p style="text-align: right;">Page 519</p> <p>1 Q What is Steven's last name? Co-worker. 2 A Aceto, A-C-E-T-O. 3 Q Do you and Steven work together or do you work on 4 alternate days? 5 A We work together. 6 Q Other than Steven, do you work with any other employees at 7 1 Prospect Park West? 8 A No. 9 Q Now, is there a door from there hallway where patients 10 come in to have X-rays? 11 A Yes. There's a door from the X-ray room. There's a 12 hallway, I mean. Waiting area outside, as well. 13 Q Oh. So patient -- there's a hallway with a door that says 14 "X-ray"? 15 A Yeah. 16 Q What does the sign over the door say? 17 A "X-ray Room." 18 HEARING OFFICER SCHAEFER: <small>It says X-ray room?</small> 19 Or is the hallway the, like the main hallway? 20 THE WITNESS: It's -- it's the main, like, hallway. 21 HEARING OFFICER SCHAEFER: Okay. 22 THE WITNESS: Yes. 23 HEARING OFFICER SCHAEFER: <small>Okay. All right.</small> 24 C, and D. And -- 25 THE WITNESS: Yes.</p>	<p style="text-align: right;">Page 521</p> <p>1 HEARING OFFICER SCHAEFER: <small>It says the X-ray room?</small> 2 THE WITNESS: Yeah. 3 HEARING OFFICER SCHAEFER: <small>It says the X-ray room?</small> 4 X-ray is -- 5 THE WITNESS: They have to be called by me or they -- or 6 if it's for Suite B, they wait in Suite B -- 7 HEARING OFFICER SCHAEFER: <small>In Suite B.</small> 8 THE WITNESS: -- and I call them. Yeah. 9 HEARING OFFICER SCHAEFER: <small>Okay. All right.</small> 10 Go ahead, Mr. Franks. 11 BY MR. FRANK: 12 Q Do you call the patients directly? 13 A Yes. 14 Q And does the hallway lights that says "X-ray," light up 15 when it says "In Use"? 16 A Yes. 17 Q And would it be accurate to say that the room you have is 18 just an X-ray room and a control booth? 19 A Yeah. 20 Q Do any of the employees in the Wound Care Center help you 21 take X-rays? 22 A No. 23 Q Do any employees in the urology practice help you take 24 X-rays? 25 A No.</p>
<p style="text-align: right;">Page 520</p> <p>1 HEARING OFFICER SCHAEFER: <small>It says X-ray room?</small> 2 X-ray in the -- 3 THE WITNESS: Yeah, which is attach -- 4 HEARING OFFICER SCHAEFER: <small>It says the X-ray room?</small> 5 hallway? 6 THE WITNESS: Yes. 7 HEARING OFFICER SCHAEFER: <small>Okay. All right.</small> 8 there's a waiting area -- when you said there were chairs, are 9 there chairs in that hallway? 10 THE WITNESS: It's right outside, yeah. It's like a 11 little waiting area. Before you get into Suite A, it's a 12 waiting area. 13 HEARING OFFICER SCHAEFER: <small>Okay. All right.</small> 14 doors on them? 15 THE WITNESS: Um-hum. 16 HEARING OFFICER SCHAEFER: <small>Okay. All right.</small> 17 inside all of the suites? 18 THE WITNESS: Yes. 19 HEARING OFFICER SCHAEFER: <small>Okay. All right.</small> 20 doors of the suites, are there receptionists at each of the 21 suites? 22 THE WITNESS: Yes. 23 HEARING OFFICER SCHAEFER: <small>Okay. All right.</small> 24 the X-ray door, is there a receptionist there? 25 THE WITNESS: On, it's the X-ray room.</p>	<p style="text-align: right;">Page 522</p> <p>1 Q And do any other of the employees in 1 Prospect Park West 2 help you take X-rays? 3 A At -- other than Steven, no. 4 Q Would it be accurate to say that you and Steven 5 essentially work alone taking X-rays of patients? 6 A Yeah. 7 Q Do you enter any information in the medical records of the 8 physician practices? Or do you only enter -- 9 A No. 10 Q -- information into the Cerner hospital system? 11 A I don't enter it into Cerner because I'm not hooked up to 12 Cerner at 1 Prospect Park West. 13 Q Okay. 14 A I only have the X-ray. But I'm hooked up to PACS. 15 Q Okay. 16 A So I send the images over to the hospital with the 17 paperwork and they generate a report and they fax it over to 18 me. 19 HEARING OFFICER SCHAEFER: <small>Okay. All right.</small> 20 THE WITNESS: Yeah. 21 HEARING OFFICER SCHAEFER: <small>Is that P-A-C-S?</small> 22 THE WITNESS: P-A-C-S. 23 HEARING OFFICER SCHAEFER: <small>Okay. All right.</small> 24 X-ray, it goes into PACS? 25 THE WITNESS: Um-hum. Yes. I enter all the information</p>

<p style="text-align: right;">Page 523</p> <p>1 manually in the X-ray computer. 2 HEARING OFFICER SCHAEFER: Okay. 3 THE WITNESS: Then I submit it. When I hit "send," it -- 4 they can see it in the hospital. But they have to wait to get 5 the paperwork so that they can look it up. The doctors can 6 look up the X-ray. 7 MR. FRANK: Okay. 8 BY MR. FRANK: 9 Q Are the X-rays read by the radiologists at the hospital? 10 A Yes. 11 Q And who is your direct supervisor? 12 A Al Uceriello. 13 Q And what is his title? 14 A I'm not 100 percent. I think he's assistant to Mary, but 15 I'm not -- I -- I'm not 100 percent. 16 Q Assistant to? 17 A To Mary Rowland. So maybe he's assistant chief 18 technologist. I'm not -- 19 HEARING OFFICER SCHAEFER: <small>they have to read that</small> 20 technologist? 21 THE WITNESS: She's the assistant director. 22 HEARING OFFICER SCHAEFER: <small>they have to read that</small> 23 THE WITNESS: Of radiology. 24 HEARING OFFICER SCHAEFER: Okay. 25 BY MR. FRANK:</p>	<p style="text-align: right;">Page 525</p> <p>1 Q Okay. But is there a door between your work area and the 2 wound care -- the rest of the wound care suite? 3 A Yes. There's two doors to close to the X-ray room. 4 Q Okay. So they can't go from the X-ray room into the wound 5 care suite -- 6 A Yes. 7 Q -- without going through a door? 8 A Yes. 9 MR. FRANK: I have no further questions. 10 HEARING OFFICER SCHAEFER: <small>they have to read that</small> 11 so to what -- when you take an X-ray, walk me through what 12 happens with the X-ray. So it goes into the PACS system? 13 THE WITNESS: Yes. 14 HEARING OFFICER SCHAEFER: <small>they have to read that</small> 15 said it -- it gets read by a radiologist at the hospital? 16 THE WITNESS: Yes. 17 HEARING OFFICER SCHAEFER: <small>they have to read that</small> 18 to the radiologist at the hospital? 19 THE WITNESS: Interoffice, the paperwork, to -- this lady 20 Pat, she's the transcriptionist in the radiology department. 21 HEARING OFFICER SCHAEFER: Okay. 22 THE WITNESS: She gives it to the file room supervisor, 23 Shirley. She distributes the paperwork to the doctors. Then 24 they are handed back to Pat with the tape. She transcribes the 25 report, gets it signed, faxes -- faxes a report over to me, and</p>
<p style="text-align: right;">Page 524</p> <p>1 Q And Anthony? 2 A Mungo. Is the director. 3 Q Of radiology? 4 A Yes. 5 Q Okay. Do you know how many radiologists are in the 6 radiology department at the hospital? 7 A Right now I don't. 8 Q Okay. Now, in the hallway are there different signs for 9 Park Slope Pediatrics? 10 A I believe so. I -- yeah. 11 Q And there's a sign pointing to the X-ray room? 12 A Yes. I think so. 13 Q And a sign pointing to Brooklyn Urology in the other 14 direction? 15 A Yes. 16 Q So I understand it, your room is not part of one of -- 17 part of urology suite? 18 A No. 19 Q Okay. And it's a -- is it a separate room from the wound 20 care suite? 21 A It's in the same -- and it's one of the rooms in the wound 22 care suite. 23 Q Okay. But there's a door between your room and the wound 24 care suite? 25 A But my equipment, it's in the hallway of the wound care.</p>	<p style="text-align: right;">Page 526</p> <p>1 then I -- the doctors each have, like, a cubby in the wound 2 care, and I just put the reports in there. 3 HEARING OFFICER SCHAEFER: <small>they have to read that</small> 4 to radiologists at other locations? Or is it always New York 5 Methodist? 6 THE WITNESS: Always New York Methodist that I'm aware of. 7 HEARING OFFICER SCHAEFER: <small>they have to read that</small> 8 getting -- do any of the doctors working in the practices read 9 the X-rays? Or is it only a radiologist? 10 THE WITNESS: They don't generate a report, but they're 11 all surgeons, so they know what they're looking at. They'll 12 come to the computer and look at the X-ray. 13 HEARING OFFICER SCHAEFER: Okay. 14 THE WITNESS: But they don't generate a report. 15 HEARING OFFICER SCHAEFER: <small>they have to read that</small> 16 don't anything about radiology so bear with me. 17 When a -- so when the radiologists -- when the X-ray gets 18 sent to the radiologist, how long approximately does it take to 19 get the report back? 20 THE WITNESS: About a week. 21 HEARING OFFICER SCHAEFER: <small>they have to read that</small> 22 the physicians practices read it before -- like, read it 23 immediately? 24 THE WITNESS: Yes. 25 HEARING OFFICER SCHAEFER: <small>they have to read that</small></p>

Page 527	Page 529
<p>1 decision based on what they're looking at?</p> <p>2 THE WITNESS: Yeah. Or if they need something -- if</p> <p>3 there's something that they're not sure about, I'll call the</p> <p>4 doctor and -- and I'll fax over the paperwork so it can be --</p> <p>5 so we can get an expedited reading.</p> <p>6 HEARING OFFICER SCHAEFER: every X-ray get read by a radiologist? Or --</p> <p>7 THE WITNESS: Yes.</p> <p>8 HEARING OFFICER SCHAEFER: I know about this. I'm sorry.</p> <p>9 Okay, when you have -- have you ever had to go to human</p> <p>10 resources?</p> <p>11 THE WITNESS: Not for nothing other than like to get a new</p> <p>12 ID because mine broke, the other one. Other than that, no.</p> <p>13 HEARING OFFICER SCHAEFER: your new ID?</p> <p>14 THE WITNESS: 9th Street and 7th Avenue.</p> <p>15 HEARING OFFICER SCHAEFER: resources department is?</p> <p>16 THE WITNESS: Yes.</p> <p>17 HEARING OFFICER SCHAEFER: floor?</p> <p>18 THE WITNESS: Second floor. I think it's -- yeah.</p> <p>19 HEARING OFFICER SCHAEFER: internal -- if you need to look at like your paystubs or any</p>	<p>1 where you needed to get information from a human resources</p> <p>2 person about healthcare or a problem with your paycheck or</p> <p>3 anything like that?</p> <p>4 THE WITNESS: No.</p> <p>5 HEARING OFFICER SCHAEFER: work at the -- at 1 Prospect Park West on Mondays, right?</p> <p>6 THE WITNESS: (No audible response.)</p> <p>7 HEARING OFFICER SCHAEFER: work on Monday, who would you -- you couldn't do the</p> <p>8 radiology -- you couldn't go to 1 Prospect Park West on Monday,</p> <p>9 who would you call and tell that you couldn't cover that shift?</p> <p>10 THE WITNESS: I would leave a message because -- obviously</p> <p>11 early on -- to my supervisor Al. Or we have another</p> <p>12 supervisor, Christian, that's there a little earlier, so he</p> <p>13 would get the call.</p> <p>14 HEARING OFFICER SCHAEFER: 1 Prospect Park West?</p> <p>15 THE WITNESS: I would -- I usually let them know.</p> <p>16 HEARING OFFICER SCHAEFER: You just --</p> <p>17 THE WITNESS: Yes.</p> <p>18 HEARING OFFICER SCHAEFER: Okay.</p> <p>19 THE WITNESS: But -- and I speak to -- I usually let</p> <p>20 Demarys know --</p> <p>21 HEARING OFFICER SCHAEFER: Okay.</p> <p>22 THE WITNESS: -- that I won't be there.</p>
Page 528	Page 530
<p>1 sort of payroll records or documents, do you have -- is the --</p> <p>2 does the hospital have an internal, like, system where you can</p> <p>3 look --</p> <p>4 THE WITNESS: Yes.</p> <p>5 HEARING OFFICER SCHAEFER: THE WITNESS: Yes.</p> <p>6 HEARING OFFICER SCHAEFER: that's called?</p> <p>7 THE WITNESS: In the hospital intranet, I go into</p> <p>8 HRPortal. And then from there I can log in to see my pay</p> <p>9 statements and things like that.</p> <p>10 HEARING OFFICER SCHAEFER: THE WITNESS: Yeah.</p> <p>11 HEARING OFFICER SCHAEFER: Or is it just called the intranet?</p> <p>12 THE WITNESS: I think it's New York Methodist intranet.</p> <p>13 HEARING OFFICER SCHAEFER: Okay.</p> <p>14 THE WITNESS: That's all I click.</p> <p>15 HEARING OFFICER SCHAEFER: address?</p> <p>16 THE WITNESS: Yes.</p> <p>17 HEARING OFFICER SCHAEFER: THE WITNESS: Tah9058@nyp.org.</p> <p>18 HEARING OFFICER SCHAEFER: going into specifics, have you ever had any, like, issues with</p>	<p>1 HEARING OFFICER SCHAEFER: supervisor, right?</p> <p>2 THE WITNESS: No.</p> <p>3 HEARING OFFICER SCHAEFER: No, okay.</p> <p>4 THE WITNESS: She's one of the secretaries for wound care.</p> <p>5 HEARING OFFICER SCHAEFER: would deal with making sure someone else was there to cover?</p> <p>6 THE WITNESS: Yes.</p> <p>7 HEARING OFFICER SCHAEFER: right at the end there you testified about where you stand when</p> <p>8 the X-rays being done. Or -- I think. So maybe I'm -- I just</p> <p>9 want to check.</p> <p>10 There's this room with the -- with -- when the X-rays are</p> <p>11 done?</p> <p>12 THE WITNESS: Yes.</p> <p>13 HEARING OFFICER SCHAEFER: while --</p> <p>14 THE WITNESS: No.</p> <p>15 HEARING OFFICER SCHAEFER: done, right?</p> <p>16 THE WITNESS: No.</p> <p>17 HEARING OFFICER SCHAEFER: THE WITNESS: My process -- well, my processor and my</p> <p>18 generator are outside the room, which is in the hallway of</p> <p>19 Suite B.</p>

<p style="text-align: right;">Page 531</p> <p>1 HEARING OFFICER SCHAEFER: <small>... ..</small></p> <p>2 when you're --</p> <p>3 THE WITNESS: Yes.</p> <p>4 HEARING OFFICER SCHAEFER: <small>... ..</small></p> <p>5 machine?</p> <p>6 THE WITNESS: Yes.</p> <p>7 HEARING OFFICER SCHAEFER: <small>... ..</small></p> <p>8 lunch during the day?</p> <p>9 THE WITNESS: Yes.</p> <p>10 HEARING OFFICER SCHAEFER: <small>Where?</small></p> <p>11 THE WITNESS: They have a kitchen in Suite B.</p> <p>12 HEARING OFFICER SCHAEFER: Okay.</p> <p>13 THE WITNESS: A lounge.</p> <p>14 HEARING OFFICER SCHAEFER: <small>... ..</small></p> <p>15 never mind.</p> <p>16 Okay, I'm good. Okay, anybody have any follow-up</p> <p>17 questions?</p> <p>18 MS. WILCOX: Just one.</p> <p>19 REDIRECT EXAMINATION</p> <p>20 BY MS. WILCOX:</p> <p>21 Q What information are you faxing over to the hospital after</p> <p>22 you do an X-ray?</p> <p>23 A Patient's information, insurance card, and their</p> <p>24 demographics.</p> <p>25 Q And that's what you're sending over to -- to the</p>	<p style="text-align: right;">Page 533</p> <p>1 and D?</p> <p>2 THE WITNESS: For D; only for D.</p> <p>3 HEARING OFFICER SCHAEFER: <small>... ..</small></p> <p>4 THE WITNESS: Yeah.</p> <p>5 BY MS. WILCOX:</p> <p>6 Q And you mentioned Deborah Keane, she was -- she worked in</p> <p>7 the radiology department with you?</p> <p>8 A She never worked in the hospital with me. She only worked</p> <p>9 at 1 Prospect Park West.</p> <p>10 Q Was she part of the radiology department?</p> <p>11 A I'm not 100 percent.</p> <p>12 Q Okay. She's no longer working at 1 Prospect Park West?</p> <p>13 A No.</p> <p>14 MS. WILCOX: Nothing further.</p> <p>15 HEARING OFFICER SCHAEFER: <small>Mr. Franks?</small></p> <p>16 RECROSS-EXAMINATION</p> <p>17 BY MR. FRANK:</p> <p>18 Q Did Deborah after maternity leave?</p> <p>19 A She was -- how can I say it? It was before maternity</p> <p>20 leave, she had to -- yeah. She had to be out.</p> <p>21 Q And you applied for her position at Prospect Park West?</p> <p>22 A No, I didn't. I was already working with her.</p> <p>23 Q Okay.</p> <p>24 A And then I went to Anthony Mungo and I told him if he</p> <p>25 needed someone there permanently that I would volunteer since I</p>
<p style="text-align: right;">Page 532</p> <p>1 transcriptionist?</p> <p>2 A Yes.</p> <p>3 Q Now, after you -- and after the -- you do that, do you --</p> <p>4 do you have any further involvement with the X-ray that you had</p> <p>5 just sent?</p> <p>6 A Yes. Well, after the report comes back, I mark it down</p> <p>7 that I received it. I put down the date. I have a logbook.</p> <p>8 And then I distribute them to the doctors.</p> <p>9 Q And that's the X-ray you just did, or the report by the</p> <p>10 radiologist?</p> <p>11 A The report.</p> <p>12 Q Is that the same -- and is that the same procedure you</p> <p>13 follow, whether it's an X-ray for Suite A, B, C, or D?</p> <p>14 A Only for B and for C. For Suite D, those patients are</p> <p>15 registered by a registrar in the hospital and they go into</p> <p>16 Cerner.</p> <p>17 HEARING OFFICER SCHAEFER: <small>... ..</small></p> <p>18 Cerner? Or do you put it in Cerner?</p> <p>19 THE WITNESS: No, there's a registrar in the hospital.</p> <p>20 She'll register the case or the X-ray. And she'll enter the</p> <p>21 X-ray into the Cerner system.</p> <p>22 HEARING OFFICER SCHAEFER: Okay.</p> <p>23 THE WITNESS: So I just have to complete it after it's</p> <p>24 done.</p> <p>25 HEARING OFFICER SCHAEFER: <small>... ..</small></p>	<p style="text-align: right;">Page 534</p> <p>1 already -- I was familiar with the system. And then eventually</p> <p>2 she resigned and they left me there.</p> <p>3 MR. FRANK: I have no further questions.</p> <p>4 HEARING OFFICER SCHAEFER: <small>... ..</small></p> <p>5 your time.</p> <p>6 THE WITNESS: You're welcome.</p> <p>7 HEARING OFFICER SCHAEFER: <small>Thank you.</small></p> <p>8 THE WITNESS: You're welcome.</p> <p>9 HEARING OFFICER SCHAEFER: <small>... ..</small></p> <p>10 Thanks.</p> <p>11 THE WITNESS: Thank you.</p> <p>12 (Witness excused.)</p> <p>13 HEARING OFFICER SCHAEFER: <small>... ..</small></p> <p>14 say this for the record; I know we've discussed this before, we</p> <p>15 are going to take administrative notice of this record in -- in</p> <p>16 Case 172410, as we've previously discussed.</p> <p>17 All right, is there a next witness?</p> <p>18 MS. WILCOX: I have no other union witnesses at this time.</p> <p>19 HEARING OFFICER SCHAEFER: <small>... ..</small></p> <p>20 Ms. Kennedy?</p> <p>21 MR. FRANK: Before we do that --</p> <p>22 HEARING OFFICER SCHAEFER: <small>... ..</small></p> <p>23 administrative stuff?</p> <p>24 MR. FRANK: -- can we go on the subpoena record?</p> <p>25 HEARING OFFICER SCHAEFER: <small>... ..</small></p>

<p>Page 535</p> <p>1 of a process, while we're on this record, can we deal with 2 the -- can we complete the evidence that -- that -- can we 3 just -- so I need to move in certain documents, so can we 4 complete those documents and move them in, from yesterday? 5 MR. FRANK: Sure. 6 HEARING OFFICER SCHAEFER: because it's a process, so. 7 because it's a process, so. 8 All right, so the new hire data -- oh, we're going to deal 9 with that later. 10 The I-9s, do we have the additional pages for the I-9s? 11 MR. FRANK: Can we go off the record? 12 HEARING OFFICER SCHAEFER: (Whereupon, a brief recess was taken.) 13 HEARING OFFICER SCHAEFER: Okay, so we're going to deal with some subpoena issues. 14 The MSO has distributed the second page of the I-9s for 15 Ms. Lorenzo and Ms. Martinez, which were MSO-10 and MSO-16. 16 So is there any objection now that those -- now that those 17 exhibits are complete, is there any objection to moving MSO-10 18 and MSO-16 into the record? 19 MS. WILCOX: No objection. 20 HEARING OFFICER SCHAEFER: received. 21 (Employer's MSO-10 and MSO-16 received.) 22 HEARING OFFICER SCHAEFER:</p>	<p>Page 537</p> <p>1 going to get a printout and everything for that. The photo of 2 her ID. 3 MR. FRANK: No objection. 4 HEARING OFFICER SCHAEFER: Okay. 5 (Counsel confer.) 6 MR. FELSTINER: We replaced the employment applications. 7 MR. FRANK: That's correct. 8 HEARING OFFICER SCHAEFER: Thank you. 9 MR. FRANK: 3 and 12. 10 HEARING OFFICER SCHAEFER: MSO-12, there was a page missing in the employment application 11 of Ms. Martinez, and that has also been corrected to include 12 the missing page. 13 And the other employment application, which was MSO-3, has 14 been replaced with a straight copy -- 15 MR. FRANK: A well Xeroxed. 16 HEARING OFFICER SCHAEFER: has no objection to those corrections; correct? 17 MS. WILCOX: That's correct. 18 HEARING OFFICER SCHAEFER: Okay. 19 All right. Anything else? So at this point, we are going 20 to move to from the wound care record to the urology record. 21 (Whereupon, at 11:23 p.m., the hearing in the above-entitled 22 matter was adjourned sine die.)</p>
<p>Page 536</p> <p>1 are the new hire data for Ms. Martinez and Ms. Lorenzo, the -- 2 is there any objection to moving those in at this time, subject 3 to questioning witnesses about how those documents were 4 obtained? 5 MS. WILCOX: No. 6 HEARING OFFICER SCHAEFER: moved into the record. 7 (Employer's MSO-6 and MSO-15 received.) 8 (Employer's MSO-20(a-c) marked.) 9 HEARING OFFICER SCHAEFER: has offered MSO -- what's been marked as MSO-20(a), (b), (c), 10 which are employment documents that were contained in the 11 employment personnel files of Jasmine Tower, John Papendick, 12 and Demarys Rodriguez. So it's 20(a) is Jasmine Tower, 20(b) 13 is John Papendick, 20(c) is Demarys Rodriguez. 14 Mr. Franks, are you offering those? 15 MR. FRANK: Yes. 16 HEARING OFFICER SCHAEFER: MS. WILCOX: No objection. 17 HEARING OFFICER SCHAEFER: are received in evidence. 18 (Employer's MSO-20(a-c) received.) 19 HEARING OFFICER SCHAEFER: move in -- well, we'll deal with MSO-19, which was Ms. 20 Henriquez's ID, which we'll deal with later. At least, we're</p>	<p>Page 538</p> <p>C E R T I F I C A T E</p> <p>This is to certify that the attached proceedings done before the NATIONAL LABOR RELATIONS BOARD REGION TWENTY-NINE</p> <p>In the Matter of:</p> <p>NEW YORK METHODIST/MSO OF KINGS COUNTY, LLC, Employer,</p> <p>and 1199 SEIU, UNITED HEALTHCARE WORKERS EAST, Petitioner.</p> <p>Case No.: 29-RC-172398 Date: April 12, 2016 Place: Brooklyn, New York</p> <p>Were held as therein appears, and that this is the original transcript thereof for the files of the Board</p> <p>Official Reporter</p> <p>BURKE COURT REPORTING, LLC 1044 Route 23 North, Suite 206 Wayne, New Jersey 07470 (973) 692-0660</p>

		ahead (2) 511:9;521:10	based (1) 527:1	Center (4) 507:23;508:2,7; 521:20
0	4	Al (8) 505:3,17,18;507:5; 512:7;523:12; 529:13;530:6	bear (1) 526:16	Cerner (8) 510:5;522:10,11, 12;532:16,18,18,21
03 (1) 515:14	4 (2) 506:18;507:13	alone (1) 522:5	became (1) 504:12	certain (1) 535:3
1	40 (2) 517:6,18	alternate (1) 519:4	begin (1) 504:3	chair (1) 513:18
1 (21) 504:24,25;506:20; 507:14;509:9; 510:24;512:1,10,13; 515:19,23;518:9,24; 519:7;522:1,12; 529:6,10,17;533:9,12	5	alternates (1) 511:25	beginning (2) 504:19;516:6	chairs (3) 509:20;520:8,9
	50 (1) 517:18	always (2) 526:4,6	behalf (1) 503:6	chance (1) 514:15
	6	Ankle (2) 507:23;511:2	benefits (1) 518:18	check (1) 530:12
10 (6) 507:8;511:18; 515:14;517:15,20; 518:6	6 (3) 507:8;511:18; 535:25	Anthony (3) 506:1;524:1; 533:24	bit (1) 534:25	chief (2) 523:17,19
100 (3) 523:14,15;533:11	6th (1) 515:10	application (2) 537:12,15	Blue (2) 512:24;515:8	Christian (2) 529:14;530:6
11:23 (1) 537:24	7	applications (1) 537:6	Board (1) 503:13	clarify (2) 517:21;537:11
1199 (3) 504:16;515:17; 518:18	7 (1) 518:6	applied (1) 533:21	booth (1) 521:18	clerk (1) 504:9
12 (1) 537:10	7th (1) 527:17	approximately (4) 506:19,21;516:2; 526:18	both (4) 514:8,17,20;515:2	click (1) 528:18
12th (1) 503:12	8	April (1) 503:12	box (4) 508:12,13,14,17	close (1) 525:3
15 (2) 517:16,20	8 (2) 506:18;507:13	area (10) 508:20;509:15,17, 18;511:2;519:12; 520:8,11,12;525:1	brief (1) 535:13	codes (1) 514:23
172410 (1) 534:16	9	Arthritis (5) 508:2,7;516:19; 517:2,8	bring (2) 509:5,8	color (1) 512:22
2	9:14 (1) 503:2	assigned (3) 504:22;506:2; 512:14	broke (1) 527:14	colors (1) 512:22
20 (1) 517:6	9th (1) 527:17	assistant (6) 505:24;523:14,16, 17,21,22	Brooklyn (1) 524:13	complete (4) 532:23;535:2,4,19
2003 (1) 504:5	A	assuming (1) 510:18	C	Computer (3) 511:1;523:1; 526:12
2006 (1) 504:14	above-entitled (1) 537:24	attach (1) 520:3	call (6) 521:8,12;527:3; 529:11,15,16	computers (1) 510:25
2008 (1) 504:15	accurate (4) 516:11;518:8; 521:17;522:4	audible (1) 529:7	called (5) 503:6;521:5;528:8, 14,15	confer (1) 537:5
2013 (1) 516:10	Aceto (2) 511:16;519:2	Avenue (1) 527:17	Can (24) 503:20,22;508:22; 513:17,20,25;514:2; 523:4,5,5;527:4,5; 528:2,10,22;533:19; 534:9,19,24;535:1,2, 2,3,11	connection (1) 506:6
2014 (1) 516:10	A-C-E-T-O (1) 519:2	aware (1) 526:6	card (5) 512:19;514:22,22; 515:8;531:23	contained (1) 536:12
20a (1) 536:14	additional (1) 535:10	B	care (18) 506:6,7,13;507:23; 511:2;517:14; 518:12;521:20; 524:20,22,24,25; 525:2,2,5;526:2; 530:5;537:23	continue (2) 503:15;507:9
20b (1) 536:14	Additionally (1) 536:10	back (5) 513:22;514:22; 525:24;526:19;532:6	Case (4) 503:12;506:5; 532:20;534:16	continued (1) 515:5
20c (1) 536:15	address (1) 528:20	backing (1) 515:8		contract (1) 504:17
29-RC-172398 (1) 503:13	adjourned (1) 537:25	badge (1) 513:18		control (1) 521:18
3	administrative (2) 534:15,23			convening (1) 503:12
3 (1) 537:10	ago (1) 516:3			copy (1) 537:16
				corrected (1) 537:13
				corrections (1) 537:19

Counsel (1) 537:5	505:24,25;523:21, 22;524:2	511:12;512:9; 515:8;519:6;521:20, 23;522:1	files (1) 536:13	good (1) 531:16
cover (3) 512:13;529:11; 530:7	discussed (2) 534:14,16	Employer's (5) 514:7;535:24; 536:8,9,22	Fire (1) 514:25	grated (1) 504:15
covered (1) 504:16	distribute (1) 532:8	employment (6) 504:20;536:12,13; 537:6,12,15	first (2) 505:17;514:22	group (1) 516:12
co-worker (3) 511:16;515:24; 519:1	distributed (1) 535:16	end (2) 510:8;530:10	five- (1) 517:9	guess (2) 516:4,5
CROSS-EXAMINATION (2) 513:13;515:5	distributes (1) 525:23	enter (7) 509:11;510:22; 522:7,8,11,25;532:20	floor (2) 527:22,23	guys (1) 514:11
cubby (1) 526:1	doctor (2) 526:21;527:4	entrance (1) 509:18	follow (1) 532:13	H
currently (1) 504:22	doctors (10) 516:24;517:5,7,10; 518:14;523:5; 525:23;526:1,8; 532:8	equipment (1) 524:25	follows (1) 503:8	
D	Doctor's (2) 515:20,21	Erin (1) 503:13	follow-up (1) 531:16	hallway (14) 519:9,12,13,18,19, 19,20,23;520:5,9; 521:14;524:8,25; 530:24
data (2) 535:8;536:1	documents (5) 528:1;535:3,4; 536:3,12	essentially (1) 522:5	Foot (2) 507:23;511:2	hand (1) 508:17
date (2) 515:24;532:7	done (4) 530:11,14,20; 532:24	eventually (1) 534:1	four- (1) 517:9	handed (1) 525:24
day (9) 510:8;517:6,21,21, 22,22;518:6,6;531:8	door (11) 510:21,22;519:9, 11,13,16;520:1,24; 524:23;525:1,7	everyone (1) 514:14	FRANK (28) 505:4;506:3,12; 513:14,20,22;514:2, 5;515:6;516:8,18; 517:23;521:11; 523:7,8,25;525:9; 533:17;534:3,21,24; 535:5,11;536:17; 537:3,7,10,17	happens (1) 525:12
days (2) 511:19;519:4	doors (4) 513:10;520:14,20; 525:3	evidence (2) 535:2;536:21	Franks (3) 521:10;533:15; 536:16	healthcare (1) 529:2
deal (7) 530:7;534:22; 535:1,8,15;536:24,25	down (3) 532:6,7;534:9	exact (2) 515:24;516:1	Friday (3) 506:18;511:20; 516:25	HEARING (131) 503:3,9,11,13; 505:5,8,10,12,15,17, 19;506:9;508:6,8,23; 509:1;511:6,9;513:4, 7,9,12,21,23,25; 514:4,6,9,14,18,20, 25;515:3;516:4,7,15, 17;517:17,20;519:18, 21,23;520:1,4,7,13, 16,19,23;521:1,3,7,9; 522:19,21,23;523:2, 19,22,24;525:10,14, 17,21;526:3,7,13,15, 21,25;527:6,9,15,18, 21,24;528:5,7,12,14, 17,19,22,24;529:5,8, 16,19,21,24;530:1,4, 6,9,16,19,22;531:1,4, 7,10,12,14;532:17, 22,25;533:3,15; 534:4,7,9,13,19,22, 25;535:6,12,14,22, 25;536:6,10,18,20, 23;537:4,8,11,18,21, 24
Deborah (3) 518:22;533:6,18	drop (1) 508:16	examined (1) 503:7	front (6) 508:20;510:9; 513:22;514:21,21; 520:19	help (5) 506:25;518:20; 521:20,23;522:2
decision (1) 527:1	duly (1) 503:7	excused (1) 534:12	further (5) 513:3;525:9;532:4; 533:14;534:3	HENRIQUEZ (2) 503:5,21
Demarys (4) 529:23;530:1; 536:14,15	during (1) 531:8	exhibit (1) 514:3	future (1) 514:3	H-E-N-R-I-Q-U-E-Z (1) 503:23
demographics (2) 508:21;531:24	duties (1) 518:15	exhibits (1) 535:19		Henriquez's (1) 536:25
department (9) 504:7;505:21; 512:3,15;524:6; 525:20;527:19; 533:7,10	E	expedited (1) 527:5		hire (2) 535:8;536:1
depend (1) 517:15	earlier (1) 529:14	extra (1) 509:6	F	
depending (1) 517:6	early (1) 529:13		G	
Depends (2) 517:19;518:6	eat (1) 531:7	familiar (1) 534:1	generate (3) 522:17;526:10,14	
die (1) 537:25	either (1) 509:19	far (1) 510:4	generator (1) 530:24	
different (6) 507:1,16;509:3,23; 510:1;524:8	else (3) 508:17;530:7; 537:22	fax (2) 522:17;527:4	gets (4) 510:6;525:15,25; 526:17	
DIRECT (2) 503:18;523:11	email (1) 528:19	faxes (2) 525:25,25	girls (3) 508:20;510:9; 518:13	
direction (1) 524:14	employed (2) 503:24;511:22	faxing (1) 531:21	given (1) 510:21	
directly (2) 513:1;521:12	employee (1) 506:6	FELSTINER (1) 537:6	gives (1) 525:22	
director (5)	employees (7)	few (1) 509:20	goes (2) 522:24;525:12	
		file (3) 504:9,10;525:22		

hit (1) 523:3	involvement (1) 532:4	506:19;515:13; 526:18	533:6	need (7) 507:18;516:12,13, 14;527:2,25;535:3
hooked (2) 522:11,14	involves (1) 506:6	longer (1) 533:12	message (1) 529:12	
Hospital (40) 503:25;504:4,14, 17,20;505:2;507:1, 10;510:2,3,5,8,10,18; 511:22,24;512:5,10, 12,15,20;513:1,11; 515:7,7,10,16; 522:10,16;523:4,9; 524:6;525:15,18; 528:2,9;531:21; 532:15,19;533:8	issues (2) 528:25;535:15	look (5) 523:5,6;526:12; 527:25;528:3	Methodist (12) 503:25;504:3,17, 20;511:22;512:10,15, 19;514:25;526:5,6; 528:16	needed (4) 506:25;512:12; 529:1;533:25
	J	looking (2) 526:11;527:1	mind (2) 515:2;531:15	needing (1) 518:20
	Jasmine (2) 536:13,14	Lorenzo (2) 535:17;536:1	mine (1) 527:14	needs (1) 508:13
	John (2) 536:13,15	lot (1) 517:3	missing (2) 537:12,14	New (17) 503:25;504:3,17, 17,20;511:22;512:10, 15,19;514:25;526:4, 6;527:13,16;528:16; 535:8;536:1
	K	lounge (1) 531:13	Monday (5) 506:18;507:8; 511:20;529:9,10	next (2) 504:8;534:17
hours (5) 506:2,16;507:12; 511:17,24	Keane (2) 518:22;533:6	lunch (1) 531:8	Mondays (2) 516:24;529:6	notice (1) 534:15
HRPortal (1) 528:10	Kennedy (1) 534:20	M	more (2) 510:19;517:18	nuclear (1) 504:7
human (3) 527:11,18;529:1	key (1) 510:22	machine (1) 531:5	move (4) 535:3,4;536:24; 537:23	O
hundreds (1) 517:4	kind (1) 507:21	maiden (1) 518:22	moved (1) 536:7	object (1) 506:3
I	kitchen (1) 531:11	main (2) 519:19,20	moving (3) 514:12;535:19; 536:2	objection (8) 535:18,19,21; 536:2,18,19;537:3,19
	Kronos (1) 511:8	making (1) 530:7	MRIs (1) 517:24	obtained (1) 536:4
I-9s (3) 535:10,10,16	L	manually (1) 523:1	MSOs (1) 535:16;536:10,11	obviously (1) 529:12
ID (12) 512:19,25;513:4, 15,20;514:2,21; 515:8;527:14,16; 536:25;537:2	lady (1) 525:19	many (7) 517:1,7,11,14; 518:5,5;524:5	MSO (3) 535:17,19,22,24	occur (1) 516:23
images (1) 522:16	last (6) 505:8;510:15; 514:10;515:1; 518:22;519:1	Mark (5) 510:15,16;514:2,6; 532:6	MSO-10 (4) 537:12	October (1) 504:5
immediately (1) 526:23	later (2) 535:9;536:25	marked (3) 514:7;536:9,11	MSO-12 (1) 535:17,19,22,24	off (3) 508:16;535:11,12
include (2) 515:1;537:13	least (1) 536:25	married (1) 518:23	MSO-15 (3) 535:25;536:6,8	offer (1) 514:5
individual (1) 518:21	leave (3) 529:12;533:18,20	Martinez (3) 535:17;536:1; 537:13	MSO-16 (4) 535:17,20,22,24	offered (1) 536:11
information (7) 508:22;522:7,10, 25;529:1;531:21,23	left (2) 513:18;534:2	Mary (4) 505:24;523:14,17, 19	MSO-19 (3) 514:6,7;536:24	offering (1) 536:16
inside (5) 508:12;509:19,23; 519:18;520:17	light (1) 521:14	maternity (2) 533:18,19	MSO-20a (2) 536:11,20	office (2) 515:22,25
insurance (2) 508:21;531:23	lights (1) 521:14	matter (1) 537:25	MSO-20a-c (2) 536:9,22	OFFICER (130) 503:3,9,11,13; 505:5,8,10,12,15,17, 19;506:9;508:6,8,23; 509:1;511:6,9;513:4, 7,9,12,21,23,25; 514:4,6,9,14,18,20, 25;515:3;516:4,7,15, 17;517:17,20;519:18, 21,23;520:1,4,7,13, 16,19,23;521:1,3,7,9; 522:19,21,23;523:2, 19,22,24;525:10,14, 17,21;526:3,7,13,15, 21,25;527:6,9,15,18,
internal (2) 527:25;528:2	line (1) 506:3	may (2) 516:3;526:25	MSO-3 (1) 537:15	
interoffice (2) 510:11;525:19	little (3) 520:11;527:9; 529:14	maybe (3) 517:18;523:17; 530:11	MSO-6 (2) 536:6,8	
into (14) 510:20;520:11; 522:10,11,24;525:4, 12;528:9,25;532:15, 17,21;535:20;536:7	located (1) 516:21	mean (4) 508:23;509:14; 515:21;519:12	Mungo (3) 506:1;524:2; 533:24	
intranet (4) 528:9,12,15,16	locations (1) 526:4	medical (1) 522:7	N	
involved (2) 506:5,12	log (1) 528:10	medicine (1) 504:7	name (11) 503:20;505:4,8,17; 510:15,15,16;518:22, 22,23;519:1	
	logbook (1) 532:7	mentioned (1)	near (3) 509:18,21,21	
	long (3)			

21,24;528:5,7,12,14, 17,19,22,24;529:5,8, 16,19,21,24;530:1,4, 6,9,16,19,22;531:1,4, 7,10,12,14;532:17, 22,25;533:3,15; 534:4,7,9,13,19,22, 25;535:6,12,14,22, 25;536:6,10,18,20, 23;537:4,8,11,18,21	509:9;510:1,24; 512:1,11,13;515:19, 23;518:9,24;519:7; 522:1,12;524:9; 529:6,10,17;533:9, 12,21	517:11;526:22	523:9;524:5;526:4, 17	reports (1)
often (2)	part (3)	picks (2)	Radiology (16)	526:2
Once (1)	particular (1)	picture (1)	504:2,11,13;	represented (1)
one (8)	Pat (2)	513:20	505:22;510:1;512:3, 14;515:19;523:23; 524:3,6;525:20; 526:16;529:10; 533:7,10	515:17
507:1;510:19,25; 524:16,21;527:14; 530:5;531:18	patient (8)	pictures (2)	rare (1)	representing (1)
One- (1)	patients (14)	514:9,10	516:13	506:12
only (8)	507:16,18,21; 509:12,16,18,24; 511:15;513:6;517:6; 519:9;521:12;522:5; 532:14	please (2)	read (6)	request (4)
522:8,14;526:9; 532:14;533:2,3,8; 536:23	Patient's (1)	503:20;513:17	523:9;525:15; 526:8,22,22;527:7	508:14;509:6; 510:5,8
open (6)	531:23	pm (1)	527:5	resigned (2)
509:14;513:10; 516:1,2;520:19,23	Pause (1)	point (1)	recall (1)	518:25;534:2
opened (1)	513:24	pointing (2)	527:21	resources (3)
515:25	P-A-X (1)	524:11,13	527:21	527:12,19;529:1
opposed (1)	522:21	position (4)	527:5	respect (1)
510:2	pay (1)	504:1,6,8;533:21	527:21	509:4
out (2)	528:10	practice (5)	527:21	response (1)
508:21;533:20	paycheck (1)	515:19,20;518:3, 12;521:23	527:21	responsibilities (4)
outside (4)	529:2	practices (4)	527:21	507:14,19;509:25; 518:12
509:20;519:12; 520:10;530:24	payroll (1)	518:9;522:8;526:8, 22	527:21	rest (1)
over (9)	528:1	prescription (1)	527:21	525:2
508:20;515:14; 519:16;522:16,17; 525:25;527:4; 531:21,25	527:25	508:24	527:21	revealing (1)
	pediatric (2)	previous (2)	527:21	527:9
	516:12;517:11	506:24;518:20	527:21	right (20)
	Pediatrics (2)	534:16	527:21	503:9,15;509:18, 20;515:3;516:7; 520:10;521:9;524:7; 529:6;530:2,9,10,20; 531:7;534:9,13,17; 535:8;537:22
	508:4;524:9	508:21;514:10	527:21	520:10;521:9;524:7; 529:6;530:2,9,10,20; 531:7;534:9,13,17; 535:8;537:22
	pending (2)	537:1	527:21	520:10;521:9;524:7; 529:6;530:2,9,10,20; 531:7;534:9,13,17; 535:8;537:22
	514:11,14	problem (1)	527:21	520:10;521:9;524:7; 529:6;530:2,9,10,20; 531:7;534:9,13,17; 535:8;537:22
	per (2)	529:2	527:21	520:10;521:9;524:7; 529:6;530:2,9,10,20; 531:7;534:9,13,17; 535:8;537:22
	517:21,22	procedure (2)	527:21	520:10;521:9;524:7; 529:6;530:2,9,10,20; 531:7;534:9,13,17; 535:8;537:22
	percent (3)	509:3;532:12	527:21	520:10;521:9;524:7; 529:6;530:2,9,10,20; 531:7;534:9,13,17; 535:8;537:22
	523:14,15;533:11	proceeding (1)	527:21	520:10;521:9;524:7; 529:6;530:2,9,10,20; 531:7;534:9,13,17; 535:8;537:22
	perform (2)	506:5	527:21	520:10;521:9;524:7; 529:6;530:2,9,10,20; 531:7;534:9,13,17; 535:8;537:22
	518:11,15	process (3)	527:21	520:10;521:9;524:7; 529:6;530:2,9,10,20; 531:7;534:9,13,17; 535:8;537:22
	permanently (1)	530:23;535:1,7	527:21	520:10;521:9;524:7; 529:6;530:2,9,10,20; 531:7;534:9,13,17; 535:8;537:22
	533:25	processor (1)	527:21	520:10;521:9;524:7; 529:6;530:2,9,10,20; 531:7;534:9,13,17; 535:8;537:22
	person (1)	530:23	527:21	520:10;521:9;524:7; 529:6;530:2,9,10,20; 531:7;534:9,13,17; 535:8;537:22
	529:2	Prospect (23)	527:21	520:10;521:9;524:7; 529:6;530:2,9,10,20; 531:7;534:9,13,17; 535:8;537:22
	personnel (1)	504:24,25;506:20; 507:14;509:9;510:1, 24;512:1,11,13; 515:19,23;518:9,24; 519:7;522:1,12; 529:6,10,17;533:9, 12,21	527:21	520:10;521:9;524:7; 529:6;530:2,9,10,20; 531:7;534:9,13,17; 535:8;537:22
	536:13	put (4)	527:21	520:10;521:9;524:7; 529:6;530:2,9,10,20; 531:7;534:9,13,17; 535:8;537:22
	Petitioner (3)	508:13;526:2; 532:7,18	527:21	520:10;521:9;524:7; 529:6;530:2,9,10,20; 531:7;534:9,13,17; 535:8;537:22
	503:6,15;537:18	puts (1)	527:21	520:10;521:9;524:7; 529:6;530:2,9,10,20; 531:7;534:9,13,17; 535:8;537:22
	photo (1)	532:17	527:21	520:10;521:9;524:7; 529:6;530:2,9,10,20; 531:7;534:9,13,17; 535:8;537:22
	537:1		527:21	520:10;521:9;524:7; 529:6;530:2,9,10,20; 531:7;534:9,13,17; 535:8;537:22
	photograph (1)		527:21	520:10;521:9;524:7; 529:6;530:2,9,10,20; 531:7;534:9,13,17; 535:8;537:22
	514:2		527:21	520:10;521:9;524:7; 529:6;530:2,9,10,20; 531:7;534:9,13,17; 535:8;537:22
	physician (2)		527:21	520:10;521:9;524:7; 529:6;530:2,9,10,20; 531:7;534:9,13,17; 535:8;537:22
	518:9;522:8		527:21	520:10;521:9;524:7; 529:6;530:2,9,10,20; 531:7;534:9,13,17; 535:8;537:22
	physicians (2)		527:21	520:10;521:9;524:7; 529:6;530:2,9,10,20; 531:7;534:9,13,17; 535:8;537:22
			527:21	520:10;521:9;524:7; 529:6;530:2,9,10,20; 531:7;534:9,13,17; 535:8;537:22
			527:21	520:10;521:9;524:7; 529:6;530:2,9,10,20; 531:7;534:9,13,17; 535:8;537:22
			527:21	520:10;521:9;524:7; 529:6;530:2,9,10,20; 531:7;534:9,13,17; 535:8;537:22
			527:21	520:10;521:9;524:7; 529:6;530:2,9,10,20; 531:7;534:9,13,17; 535:8;537:22
			527:21	520:10;521:9;524:7; 529:6;530:2,9,10,20; 531:7;534:9,13,17; 535:8;537:22
			527:21	520:10;521:9;524:7; 529:6;530:2,9,10,20; 531:7;534:9,13,17; 535:8;537:22
			527:21	520:10;521:9;524:7; 529:6;530:2,9,10,20; 531:7;534:9,13,17; 535:8;537:22
			527:21	520:10;521:9;524:7; 529:6;530:2,9,10,20; 531:7;534:9,13,17; 535:8;537:22
			527:21	520:10;521:9;524:7; 529:6;530:2,9,10,20; 531:7;534:9,13,17; 535:8;537:22
			527:21	520:10;521:9;524:7; 529:6;530:2,9,10,20; 531:7;534:9,13,17; 535:8;537:22
			527:21	520:10;521:9;524:7; 529:6;530:2,9,10,20; 531:7;534:9,13,17; 535:8;537:22
			527:21	520:10;521:9;524:7; 529:6;530:2,9,10,20; 531:7;534:9,13,17; 535:8;537:22
			527:21	520:10;521:9;524:7; 529:6;530:2,9,10,20; 531:7;534:9,13,17; 535:8;537:22
			527:21	520:10;521:9;524:7; 529:6;530:2,9,10,20; 531:7;534:9,13,17; 535:8;537:22
			527:21	520:10;521:9;524:7; 529:6;530:2,9,10,20; 531:7;534:9,13,17; 535:8;537:22
			527:21	520:10;521:9;524:7; 529:6;530:2,9,10,20; 531:7;534:9,13,17; 535:8;537:22
			527:21	520:10;521:9;524:7; 529:6;530:2,9,10,20; 531:7;534:9,13,17; 535:8;537:22
			527:21	520:10;521:9;524:7; 529:6;530:2,9,10,20; 531:7;534:9,13,17; 535:8;537:22
			527:21	520:10;521:9;524:7; 529:6;530:2,9,10,20; 531:7;534:9,13,17; 535:8;537:22
			527:21	520:10;521:9;524:7; 529:6;530:2,9,10,20; 531:7;534:9,13,17; 535:8;537:22
			527:21	520:10;521:9;524:7; 529:6;530:2,9,10,20; 531:7;534:9,13,17; 535:8;537:22
			527:21	520:10;521:9;524:7; 529:6;530:2,9,10,20; 531:7;534:9,13,17; 535:8;537:22
			527:21	520:10;521:9;524:7; 529:6;530:2,9,10,20; 531:7;534:9,13,17; 535:8;537:22
			527:21	520:10;521:9;524:7; 529:6;530:2,9,10,20; 531:7;534:9,13,17; 535:8;537:22
			527:21	520:10;521:9;524:7; 529:6;530:2,9,10,20; 531:7;534:9,13,17; 535:8;537:22
			527:21	520:10;521:9;524:7; 529:6;530:2,9,10,20; 531:7;534:9,13,17; 535:8;537:22
			527:21	520:10;521:9;524:7; 529:6;530:2,9,10,20; 531:7;534:9,13,17; 535:8;537:22
			527:21	520:10;521:9;524:7; 529:6;530:2,9,10,20; 531:7;534:9,13,17; 535:8;537:22
			527:21	520:10;521:9;524:7; 529:6;530:2,9,10,20; 531:7;534:9,13,17; 535:8;537:22
			527:21	520:10;521:9;524:7; 529:6;530:2,9,10,20; 531:7;534:9,13,17; 535:8;537:22
			527:21	520:10;521:9;524:7; 529:6;530:2,9,10,20; 531:7;534:9,13,17; 535:8;537:22
			527:21	520:10;521:9;524:7; 529:6;530:2,9,10,20; 531:7;534:9,13,17; 535:8;537:22
			527:21	520:10;521:9;524:7; 529:6;530:2,9,10,20; 531:7;534:9,13,17; 535:8;537:22
			527:21	520:10;521:9;524:7; 529:6;530:2,9,10,20; 531:7;534:9,13,17; 535:8;537:22
			527:21	520:10;521:9;524:7; 529:6;530:2,9,10,20; 531:7;534:9,13,17; 535:8;537:22
			527:21	520:10;521:9;524:7; 529:6;530:2,9,10,20; 531:7;534:9,13,17; 535:8;537:22
			527:21	520:10;521:9;524:7; 529:6;530:2,9,10,20; 531:7;534:9,13,17; 535:8;537:22
			527:21	520:10;521:9;

532:12,12 Saturdays (1) 511:25 SCHAEFER (130) 503:3,9,11,14; 505:5,8,10,12,15,17, 19;506:9;508:6,8,23; 509:1;511:6,9;513:4, 7,9,12,21,23,25; 514:4,6,9,14,18,20, 25;515:3;516:4,7,15, 17;517:17,20;519:18, 21,23;520:1,4,7,13, 16,19,23;521:1,3,7,9; 522:19,21,23;523:2, 19,22,24;525:10,14, 17,21;526:3,7,13,15, 21,25;527:6,9,15,18, 21,24;528:5,7,12,14, 17,19,22,24;529:5,8, 16,19,21,24;530:1,4, 6,9,16,19,22;531:1,4, 7,10,12,14;532:17, 22,25;533:3,15; 534:4,7,9,13,19,22, 25;535:6,12,14,22, 25;536:6,10,18,20, 23;537:4,8,11,18,21 schedule (2) 506:20;507:7 school (1) 504:14 script (2) 508:19,23 seat (1) 503:9 second (3) 514:22;527:23; 535:16 secretaries (1) 530:5 send (4) 510:7,10;522:16; 523:3 sending (1) 531:25 sent (3) 526:3,18;532:5 separate (2) 520:1;524:19 set (1) 515:1 setup (1) 515:22 seven (2) 516:3;517:10 shift (1) 529:11 Shirley (1) 525:23 show (1) 514:11 sides (2)	514:17,20 sign (5) 510:25;511:7; 519:16;524:11,13 signed (1) 525:25 signs (1) 524:8 simple (2) 518:1,2 sine (1) 537:25 sit (1) 509:21 six (1) 517:9 skip (1) 513:25 Slope (1) 524:9 Someone (3) 510:12;530:7; 533:25 sometimes (2) 507:17;518:13 sorry (12) 505:4,7;506:17; 507:20;509:25; 511:6;514:21; 515:21;517:21; 522:19;527:10; 532:25 sort (1) 528:1 speak (1) 529:22 specifics (1) 528:25 spell (2) 503:22;505:5 Spine (5) 508:2,6;516:19; 517:2,7 stand (3) 530:10,16,22 Start (3) 505:16;506:16; 509:14 started (6) 504:14;506:22,25; 507:3;516:10;534:19 Starts (1) 505:12 state (2) 503:11,20 statements (1) 528:11 step (1) 534:9 Steven (5) 511:16;519:3,6; 522:3,4 Steven's (1)	519:1 still (2) 505:2;518:24 straight (1) 537:16 Street (2) 515:11;527:17 stripe (1) 512:22 stuff (1) 534:23 subject (1) 536:2 submit (1) 523:3 subpoena (2) 534:24;535:15 Suite (41) 507:16,17,17,17, 21,22,24;508:1,3,6, 12,16,19;509:7,11, 17,24;510:20,22; 511:3,4;516:15,22; 517:8,12;519:18; 520:11;521:6,6,7; 524:17,20,22,24; 525:2,5;530:25; 531:1,11;532:13,14 suites (8) 507:16;509:4,4; 519:23;520:13,17,20, 21 Sundays (2) 507:11;511:25 supervisor (11) 504:25;506:25; 507:4;512:7,17,18; 523:11;525:22; 529:13,14;530:2 supervisor's (1) 505:2 sure (4) 516:6;527:3;530:7; 535:5 surgeons (1) 526:11 sworn (1) 503:7 system (6) 511:7;522:10; 525:12;528:2; 532:21;534:1	tech (1) 518:20 technologist (6) 504:2,13;506:24; 510:1;523:18,20 techs (2) 507:1;512:12 testified (2) 503:7;530:10 testimony (1) 506:8 thanks (2) 514:1;534:10 three- (1) 517:9 throughout (1) 515:15 Thursday (3) 507:8;511:20; 516:25 times (1) 513:6 title (1) 523:13 together (3) 510:4;519:3,5 told (2) 506:24;533:24 took (3) 514:9,16,21 total (1) 516:4 Tower (2) 536:13,14 transcribes (1) 525:24 transcriptionist (2) 525:20;532:1 translate (1) 518:13 transporter (1) 510:6 Tuesday (2) 507:8;516:24 Tuesdays (1) 511:20 two (3) 506:5,21;525:3 two- (1) 517:9	up (7) 510:12,14;521:14; 522:11,14;523:5,6 Urology (7) 507:25;518:3,16; 521:23;524:13,17; 537:23 use (6) 511:6;513:4,7,9; 521:15;527:24 usually (2) 529:18,22
V				
varies (1) 517:15 volunteer (1) 533:25				
W				
wait (4) 509:12,19;521:6; 523:4 waiting (6) 509:15;519:12; 520:8,11,12;521:3 walk (1) 525:11 way (1) 510:19 Wednesdays (1) 507:11 week (4) 517:1,17,18; 526:20 welcome (2) 534:6,8 West (23) 504:24;505:1; 506:20;507:15; 509:9;510:1,24; 512:1,11,13;515:20, 23;518:9,24;519:7; 522:1,12;529:6,10, 17;533:9,12,21 what's (4) 505:8;507:21; 528:14;536:11 Whereupon (3) 503:4;535:13; 537:24 whole (1) 515:15 who's (1) 505:25 Wilcox (28) 503:16,17,19; 505:20;506:8,14,15; 508:9;509:2;511:10, 11;513:3;514:8,13, 16,19,24;515:2,4;				
U				
Uceriello (5) 505:3,9,10;507:5; 523:12 Um-hum (3) 510:19;520:15; 522:25 union (1) 534:18 unit (1) 506:5				
T				
Tah9058@nyporg (1) 528:23 TANIA (2) 503:5,21 T-A-N-I-A (1) 503:23 tape (1) 525:24				

<p>531:18,20;533:5,14; 534:18;535:21; 536:5,19;537:20 within (2) 504:14;531:1 without (2) 525:7;528:24 witness (90) 503:6,10;505:7,9, 11,14,16,18;506:11; 508:7,25;511:8; 513:5,8,11,19;516:5, 16;517:18,22;519:20, 22,25;520:3,6,10,15, 18,22,25;521:2,5,8; 522:20,22,25;523:3, 21,23;525:13,16,19, 22;526:6,10,14,20, 24;527:2,8,13,17,20, 23;528:4,6,9,13,16, 18,21,23;529:4,7,12, 18,20,22,25;530:3,5, 8,15,18,21,23;531:3, 6,9,11,13;532:19,23; 533:2,4;534:6,8,11, 12,17 witnesses (3) 503:16;534:18; 536:3 work (22) 504:23;506:2; 507:7,12;508:10; 509:9;511:17,19,21, 22,24;512:10; 515:13;518:24; 519:3,3,5,6;522:5; 525:1;529:6,9 worked (11) 506:19,24;507:8; 515:7,10,15,16,24; 533:6,8,8 working (12) 504:3;506:17,22; 507:9,14;510:24; 511:12;512:3;513:1; 526:8;533:12,22 works (1) 510:17 wound (18) 506:6,6,12;507:23; 511:2;517:14; 518:12;521:20; 524:19,21,23,25; 525:2,2,4;526:1; 530:5;537:23</p>	<p>509:10,13,21,25; 510:6,20;515:22; 519:11,14,17;520:2, 24,25;521:1,4,14,18; 522:14,24;523:1,6; 524:11;525:3,4,11, 12;526:12,17;527:7; 531:4,22;532:4,9,13, 20,21 X-rays (22) 507:18;511:13; 516:11,19;517:1,14; 518:1,2,3,8,11,15; 519:10;521:21,24; 522:2,5;523:9;526:3, 9;530:11,13 X-ray's (2) 526:7;530:19</p>			
	Y			
	<p>years (3) 506:21;515:14; 516:3 yesterday (1) 535:4 York (13) 503:25;504:3,17, 17,20;511:22;512:10, 15,19;514:25;526:4, 6;528:16</p>			
X				
<p>Xeroxed (1) 537:17 X-ray (42) 504:14;507:16; 508:11,12,13,22;</p>				

In The Matter Of:
*NEW YORK METHODIST MSOB of Kings
County and
1199 SEIU, UNITED HEALTHCARE
WORKERS EAST*

*Vol. 6
April 12, 2016*

*Burke Court Reporting, LLC
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Original File NY Methodist vol 6.prn

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Page 539

BEFORE THE
NATIONAL LABOR RELATIONS BOARD

In the Matter of:

NEW YORK METHODIST/MSO OF KINGS Case No. 29-RC-172410
COUNTY, LLC,

Employer,

and

1199 SEIU, UNITED HEALTHCARE
WORKERS EAST,

Petitioner.

Page 543	Page 545
<p>1 PROCEEDINGS 2 (Time: 11:45 a.m.) 3 HEARING OFFICER SCHAEFER: <small>On the record.</small> 4 All right, so we're on the record in 127410 (sic). The 5 hearing officer is Erin Schaefer. Today is April 12th. We're 6 in the record in 29-RC-127410 (sic). 7 Just to state for this record, that will be taking 8 administrative notice of the record in Case 12 -- sorry, 127398 9 (sic), to the extent that some testimony comes in that record 10 that may overlap with incidents in this record. 11 We're just going to do some housekeeping quickly. There 12 is a document, U-29, that's Ms. Feliciano's ID badge, 13 photographs of Ms. Feliciano's ID badge. That's Union 29. 14 Is there any objection to moving that into evidence? 15 MR. FRANK: No objection. 16 HEARING OFFICER SCHAEFER: Okay. 17 (Union's U-29 received.) 18 (Employer's MSO-8(a-o) marked.) 19 HEARING OFFICER SCHAEFER: <small>Has MSO-8(a-o) been marked?</small> 20 Petitioner personnel documents that have been marked and 21 identified as MSO-8(a) through (o) that for -- so that each 22 letter being a different employee that is in -- that works in 23 the urology department that is in the petitioned for unit. 24 Is there -- now, those have been distributed to the 25 Petitioner. Is there any objection to moving MSO-8 into the</p>	<p>1 MR. FRANK: Signed by Alvin Blyer. 2 HEARING OFFICER SCHAEFER: <small>All right. Is there any</small> 3 objection to that cert being received in evidence? 4 MS. WILCOX: No objection. 5 HEARING OFFICER SCHAEFER: Okay. 6 MS. WILCOX: But I would just say if there's a copy 7 that -- if we can find out what the date is, that would be 8 helpful, too. If you -- if the hearing officer's acceptable in 9 locating it. 10 HEARING OFFICER SCHAEFER: Okay. 11 MR. FRANK: It's dated October 27th of 19-something. 12 HEARING OFFICER SCHAEFER: <small>Is that? Is it correct?</small> 13 MS. WILCOX: Right, exactly, 19-something. 14 HEARING OFFICER SCHAEFER: <small>Okay. Please go on if you</small> 15 find a clean copy. 16 MR. FRANK: And by the way, we would have no -- 17 HEARING OFFICER SCHAEFER: <small>Is there a copy? -- then yes</small> 18 objection to that cert being received in evidence? I'll try to 19 find a copy that -- 20 MS. WILCOX: Yes. 21 HEARING OFFICER SCHAEFER: <small>-- confirm a date, if you can</small> 22 the back, and then -- but now, I'll receive MSO-9 into 23 evidence. 24 (Employer's MSO-9 received.) 25 MS. WILCOX: Can we go off the record for a minute?</p>
Page 544	Page 546
<p>1 record? 2 MS. WILCOX: No objection. 3 HEARING OFFICER SCHAEFER: <small>Okay. MSO-8(a-o) and U-29</small> 4 through (o), are received in evidence. 5 (Employer's MSO-8(a-o) received.) 6 MR. FRANK: With a slight clarification. 7 HEARING OFFICER SCHAEFER: Sure. 8 MR. FRANK: The employee files are Exhibits (a) through 9 (n) -- 8(a) through (n). And Exhibit 8(o) are I-9 forms for 10 each of the employees in Exhibits (a) through (n). 11 HEARING OFFICER SCHAEFER: <small>Thank you.</small> 12 (Employer's MSO-9 marked.) 13 HEARING OFFICER SCHAEFER: <small>MSO-9, also have marked</small> 14 and marked. It's the professional unit certification at New 15 York Methodist Hospital in a previous case. Can you give me 16 that case number? 17 MR. FRANK: 29-RC-9326. And the included unit was all 18 full-time and regular part-time professional employees employed 19 by the Employer, who was New York Methodist Hospital, in the 20 following classifications, at the Employer's 506 6th Street, 21 Brooklyn, New York facility: laboratory technologists, 22 dietician, social workers, recreational therapists, and 23 pharmacists. Excluded: all other employees, guards, and 24 supervisors as defined in the Act. 25 HEARING OFFICER SCHAEFER: Okay.</p>	<p>1 HEARING OFFICER SCHAEFER: <small>You, okay, off -- off the</small> 2 record. 3 (Whereupon, a brief recess was taken.) 4 HEARING OFFICER SCHAEFER: <small>Back on the record.</small> 5 Okay, so I received MSO-9 in the record. 6 HEARING OFFICER SCHAEFER: <small>Has MSO-9(a-o) been marked?</small> 7 which is -- 30(a) is a copy of the CBA, and 30(b) is a copy of 8 the most recent MOA, which extends the contract from 2014 to 9 2018. The dates -- the specific dates are on the documents. 10 There seems to be just some clarification that needs to be made 11 about the unit. 12 MR. FRANK: Yes, the -- 13 HEARING OFFICER SCHAEFER: <small>So -- go ahead.</small> 14 MR. FRANK: -- as provided for in the collective 15 bargaining agreement, it is applicable only for the units 16 certified by the Board, as forth in Stipulation 1. In other 17 words, at each hospital that may be a member of the league, 18 there are different units for which the Union represents 19 employees. 20 For example, at Methodist Hospital, there's a certified 21 unit, which is MSO-9. There are other certifications where the 22 Union does not represent employees, such as nurses, RNs; 23 they're represented by another organization. So the collective 24 bargaining agreement by its terms in Stipulation 1, only 25 applies to units that have been previously certified by the</p>

<p>Page 547</p> <p>1 Board, or recognized, and they remain as separate individual 2 units. 3 HEARING OFFICER SCHAEFER: <small>But to clarify, regardless of</small> 4 how many certs there are, there's one collective bargaining 5 agreement covering all of the certifications that they Board 6 may have issued in New York Methodist? 7 MS. WILCOX: That's my understanding, yes. And -- and 8 the -- yeah, and the Union would say that -- 9 HEARING OFFICER SCHAEFER: <small>Well, just to clarify, correct</small> 10 issued for 1199 representing those employees? There's one 1199 11 contract -- 12 MR. FRANK: There's one league agreement -- 13 HEARING OFFICER SCHAEFER: <small>-- at the hospital?</small> 14 MR. FRANK: -- which is applicable to the units for which 15 the Union has been certified to represent. There may be 16 individual agreements that have been negotiated that are not 17 contained in that agreement. 18 HEARING OFFICER SCHAEFER: Okay. 19 MS. WILCOX: But they still -- well, they would be -- but 20 any employees of New York Methodist Hospital are covered by the 21 terms of the collective bargaining agreement between 1199 and 22 the League of Voluntary Hospitals and Homes, of which New 23 York -- the Methodist Hospital is a member. 24 HEARING OFFICER SCHAEFER: Okay. 25 MR. FRANK: It's a multi-employer group.</p>	<p>Page 549</p> <p>1 certified. 2 HEARING OFFICER SCHAEFER: <small>That's correct, that's correct.</small> 3 mixed unit? 4 MR. FRANK: That's correct. It's a professional -- 5 HEARING OFFICER SCHAEFER: But -- 6 MR. FRANK: -- employee unit. 7 HEARING OFFICER SCHAEFER: <small>But to clarify, regardless of</small> 8 that the effect, regardless of what the units are, there is one 9 contract to "rule them all," to quote The Lord of the Rings. 10 MS. WILCOX: Right. At Methodist Hospital. 11 HEARING OFFICER SCHAEFER: <small>At Methodist Hospital.</small> 12 MS. WILCOX: Right. 13 MR. FRANK: Notwithstanding the certification, okay. 14 MS. WILCOX: Yeah. 15 MR. FRANK: Now, for the record, physician assistants are 16 not included in that bargaining unit at the hospital. 17 HEARING OFFICER SCHAEFER: <small>Is that in dispute?</small> 18 MS. WILCOX: That is not in dispute. 19 HEARING OFFICER SCHAEFER: <small>Okay. All right.</small> 20 MR. FRANK: The registered nurses are not in that 21 bargaining unit. 22 HEARING OFFICER SCHAEFER: <small>Okay. All right. Good.</small> 23 Anything -- 24 Now, about that, do we want to -- do you want to -- Mr. 25 Franks, do you want a chance to look at that with your client</p>
<p>Page 548</p> <p>1 HEARING OFFICER SCHAEFER: <small>Right. Yeah. Right.</small> 2 MS. WILCOX: Right. And we know this is a multi-employer 3 agreement with the League. 4 MR. FRANK: We would so stipulate. 5 MS. WILCOX: Yeah. 6 HEARING OFFICER SCHAEFER: Okay. 7 MR. FRANK: No objection. 8 MS. WILCOX: And -- 9 HEARING OFFICER SCHAEFER: <small>All right, so you --</small> 10 MS. WILCOX: Yeah. So I mean, I think the question is 11 just whether -- I mean, the Union takes the position as it 12 filed the petitions in these two matters, that it's a non- 13 professional professional unit of employees at New York 14 Methodist Hospital. 15 HEARING OFFICER SCHAEFER: <small>Right. But the question is --</small> 16 not take that position -- 17 MS. WILCOX: I understand. 18 HEARING OFFICER SCHAEFER: <small>-- because the certs have</small> 19 been -- like individual certifications have been obtained. 20 There is -- the Employer's position is, and correct me if 21 I'm wrong, but that there are no mixed units. In fact, there 22 are eight or there are however many separate units at the -- at 23 the hospital? 24 MR. FRANK: That's correct. And MSO-9 is a -- an existing 25 professional unit at Methodist Hospital for which the unit is</p>	<p>Page 550</p> <p>1 before -- 2 MR. FRANK: I do. I'm not prepared to stipulate on that. 3 HEARING OFFICER SCHAEFER: <small>Okay. All right. Well --</small> 4 we'll get -- we'll deal with that once everybody's had a chance 5 to look at it. 6 Okay, so we're going to go off the record and take a break 7 for lunch. Please come back at 1:00, okay. 8 MR. FRANK: What is the relevance of this? 9 HEARING OFFICER SCHAEFER: Well -- 10 MR. FRANK: Why do you want this in the record? 11 HEARING OFFICER SCHAEFER: <small>Let's go off the record.</small> 12 (Whereupon, at 12:07 p.m., a luncheon recess was taken.) 13 14 15 16 17 18 19 20 21 22 23 24 25</p>

<p style="text-align: right;">Page 551</p> <p>1 AFTERNOON SESSION 2 (Time: 1:42 p.m.) 3 HEARING OFFICER SCHAEFER: <small>Back on the record</small> 4 All right, so we're back from lunch. 5 (Union's U-30(a-d) marked.) 6 HEARING OFFICER SCHAEFER: <small>The Plaintiff's last offered</small> 7 Union 30(a), (b), (c), and (d). Union 30(a) is a copy of the 8 collective bargaining agreement; (b) is the memorandum of 9 agreement from 2014 to 2018; (c) is Stipulation 1 from 1987, 10 which includes both the service and technical units; and (d) is 11 the Stipulation 1 from 1982, which just has -- so it predates 12 the previous stip, but it just includes the service/maintenance 13 employees. 14 Is there any objection to receiving those into evidence? 15 MR. FRANK: No objection. 16 HEARING OFFICER SCHAEFER: <small>Okay, Union 30(a-d) is in.</small> 17 and (d) are received in evidence. 18 (Union's U-30(a-d) received.) 19 HEARING OFFICER SCHAEFER: <small>Okay, Union 30(a-d) is in.</small> 20 all right. That's already in. 21 (Union's U-31 marked.) 22 HEARING OFFICER SCHAEFER: <small>The -- now, the Union's</small> 23 offering this grid -- 24 MS. WILCOX: Yeah. It's a grid dated -- it's from October 25 2014. It's my understanding that Methodist Hospital -- New</p>	<p style="text-align: right;">Page 553</p> <p>1 MR. FRANK: So -- 2 HEARING OFFICER SCHAEFER: All right. 3 MR. FRANK: -- I can't stipulate to the accuracy of this 4 document. 5 HEARING OFFICER SCHAEFER: <small>Okay, all right, we're going</small> 6 to receive it with -- for -- for the weight that its due 7 when -- and with the understanding that it -- there may be, for 8 example, the -- things that are in this document that may be 9 contrary to the certs or endeavoring to find more certs, and 10 that might end up being ultimately dispositive. But I'm going 11 to receive it for now and we'll give it -- 12 MR. FRANK: We would object for this document in any way 13 in terms of describing the bargaining unit. 14 HEARING OFFICER SCHAEFER: <small>So 31 -- okay.</small> 15 MR. FRANK: There's are job titles, it's not a unit 16 description in any sense. 17 HEARING OFFICER SCHAEFER: <small>Okay, all right, we're going to</small> 18 received in evidence. 19 (Union's U-31 received.) 20 HEARING OFFICER SCHAEFER: <small>Okay, all right, let's receive it</small> 21 a witness. 22 MR. FRANK: Joanne Kennedy. 23 HEARING OFFICER SCHAEFER: <small>Okay, all right, let's receive it</small> 24 you raise your hand? 25 (Whereupon,</p>
<p style="text-align: right;">Page 552</p> <p>1 York Methodist Hospital provided to 1199's contract department, 2 and it's supposed to represent the job classifications that are 3 represented by 1199 at New York Methodist Hospital. 4 I would just say on the record the Union, you know, 5 reserves any rights as to whether it's 100 percent inclusive, 6 but we're offering it to show the job classifications that we 7 believe -- that the hospital at least believes were part of our 8 bargaining unit. 9 HEARING OFFICER SCHAEFER: <small>Okay, New York Methodist</small> 10 MR. FRANK: I will follow. 11 HEARING OFFICER SCHAEFER: <small>Go ahead.</small> 12 MR. FRANK: Okay. MSO cannot consent to this document 13 because it has no knowledge of the accuracy of this document. 14 HEARING OFFICER SCHAEFER: <small>To New York Methodist</small> 15 MR. FRANK: As for New York Methodist, I don't know the 16 accuracy of the document. It appears to list the job -- a lot 17 of job classifications that existed two years ago. But I do 18 note some inaccuracies, such as including the social workers 19 and the dieticians as technical employees, which is contrary to 20 the stipulation. 21 HEARING OFFICER SCHAEFER: <small>Because the record reflects so</small> 22 professional? 23 MR. FRANK: According to the stipulation we put into the 24 record before. 25 HEARING OFFICER SCHAEFER: Okay.</p>	<p style="text-align: right;">Page 554</p> <p>1 JOANNE KENNEDY, 2 was called as a witness by and on behalf of Employer and, after 3 having been duly sworn, was examined and testified as follows:) 4 HEARING OFFICER SCHAEFER: <small>Okay, please begin a new</small> 5 MR. FRANK: Am I correct we're in the urology practice 6 record? 7 HEARING OFFICER SCHAEFER: <small>That's correct.</small> 8 DIRECT EXAMINATION 9 BY MR. FRANK: 10 Q Would you state your full name for the record, please? 11 A Joanne Deborah Kennedy. 12 Q And by whom are you employed? 13 A MSO of Kings County. 14 Q And when did you become an employee at MSO of Kings 15 County? 16 A July 6, 2015. 17 Q And have you been present at the hearing? 18 A Yes, I have. 19 Q And what is your job title? 20 A Human resources business partner. 21 Q And what are your duties as the human resources business 22 partner? 23 A My duties include recruiting employees. Disciplinary 24 actions. Creating and editing job descriptions. Management of 25 the urology and wound care centers. Dealing with any HR</p>

<p style="text-align: right;">Page 555</p> <p>1 related functions or situations that may arise at those two 2 facilities. Terminations of employment. Salary distribution. 3 And anything else that may come up. 4 Q And what is MSO of Kings County? 5 A MSO of Kings County is a management services organization 6 that provides administrative services to the physician offices, 7 to help them run their practices. 8 HEARING OFFICER SCHAEFER: _____ 9 physicians? 10 THE WITNESS: Physician practices. 11 HEARING OFFICER SCHAEFER: _____ 12 Thank you. 13 BY MR. FRANK: 14 Q And what is a physician practice? 15 A A physician practice is an office that physicians operate 16 to provide patient care. And -- yeah, that's what they do for 17 the community. For patients. 18 Q Physicians sometimes called "doctors"? 19 A Yeah, there is doctors. They are doctors. 20 Q And a physician's practice, is that a doctor's office? 21 A It is a doctor's office. 22 Q And how is a doctor's office different than an acute care 23 hospital? 24 A Well, a doctor's office, they deal -- for example, in 25 urology, they deal with urology related illnesses, where an</p>	<p style="text-align: right;">Page 557</p> <p>1 A My office is located at 435 9th Street, 7th Avenue. 2 Q And how far is that from the hospital? 3 A It's about three to four blocks. Three. Three blocks. 4 Q And what floor are you located on? 5 A Second floor. 6 Q Now, is the hospital's human resource department also 7 located at that building? 8 A Yes, it is. 9 Q Okay. And where is that located? 10 A That is located on second floor and the third floor. 11 Q Okay. Now, going back to what I -- does an acute care 12 hospital have surgery? 13 A Oh, yes. Yes, it does. 14 Q Does the MSO doctors' offices have operating rooms? 15 A No, they do not. 16 HEARING OFFICER SCHAEFER: _____ 17 BY MR. FRANK: 18 Q What's an operating room? 19 A An operating room -- 20 HEARING OFFICER SCHAEFER: Well -- 21 MR. FRANK: Okay. 22 THE WITNESS: -- is a -- 23 HEARING OFFICER SCHAEFER: You're -- 24 THE WITNESS: Okay. 25 HEARING OFFICER SCHAEFER: _____</p>
<p style="text-align: right;">Page 556</p> <p>1 acute care facility could deal with extreme emergencies, 2 traumas. They work 24/7 where the doctor's offices do not work 3 24/7. 4 Q Let's -- are the offices where doctor's see their 5 patients? 6 A Yes, they are. 7 Q Now, is New York Methodist Hospital an acute care 8 facility? 9 A Yes, it is. 10 Q And where is New York Methodist Hospital located? 11 A New York Methodist Hospital is located at 6th Street and 12 7th Avenue. 13 Q In what borough? 14 A Kings County. Brooklyn. 15 Q And where is the urology practice located? 16 A The urology practice is located on 1 Park -- Prospect Park 17 West. 18 Q Okay. And is that also in Brooklyn? 19 A Yes, it is. 20 Q And is Brooklyn in New York? 21 A Yes, it is. 22 Q And can you estimate how far apart is the 6 Avenue (sic) 23 hospital from 1 Prospect Park West? 24 A I could estimate it about a mile. 25 Q Now, where is your office located?</p>	<p style="text-align: right;">Page 558</p> <p>1 care facility do surgery? The answer is yes. Then the next 2 question was, does the facility -- does MSO have operating 3 rooms? And you said, no. 4 MR. FRANK: Right. 5 HEARING OFFICER SCHAEFER: _____ 6 does surgery happen at MSO? 7 THE WITNESS: Minor surgery does happen at MSO. 8 HEARING OFFICER SCHAEFER: Okay. 9 BY MR. FRANK: 10 Q And so doctors can do minor surgeries in their offices? 11 A Yes. 12 Q Okay. And more major procedures and acute procedures are 13 done in the hospital? 14 A Yes. 15 Q Now, does the MSO provide any services to the acute care 16 hospital? In the hospital building? 17 A No. 18 Q What type of services does MSO provide to the physician 19 practice in urology? 20 A MSO provides administrative services, recruitment, human 21 resources functions. 22 Q Is there an office manager for MSO urology? 23 A Yes, there is. 24 Q Who is the office manager? 25 A Office manager is Suzanne Wood or Dinnerstein-Wood.</p>

<p style="text-align: right;">Page 559</p> <p>1 HEARING OFFICER SCHAEFER: <small>That's in analogy?</small></p> <p>2 THE WITNESS: Yes.</p> <p>3 HEARING OFFICER SCHAEFER: Okay.</p> <p>4 BY MR. FRANK:</p> <p>5 Q I think she's been referred to by both names --</p> <p>6 A Um-hum.</p> <p>7 Q -- at various times in the practice.</p> <p>8 And what are the duties of the office manager, Suzanne</p> <p>9 Dinnerstein-Wood?</p> <p>10 A The office manager's responsibilities are to ensure that</p> <p>11 the op -- the office is running smoothly so that doctors can</p> <p>12 perform their services. Staffing, you know, making sure her</p> <p>13 staff is covered.</p> <p>14 Q What do you mean by "covered"?</p> <p>15 A Making sure if someone's on vacation that that person may</p> <p>16 have replacement, if necessary. Making sure also that she</p> <p>17 sends -- they other facilities. She may send -- she appoints</p> <p>18 them to another facility to work with a specific doctor on a</p> <p>19 specific day; coverage for that office.</p> <p>20 Q So if a doctor's going to be at one of his other offices</p> <p>21 than 1 Prospect Park --</p> <p>22 A Yes. See they go --</p> <p>23 Q -- she would make that assignment?</p> <p>24 A She does, yes.</p> <p>25 Q And -- okay. What else does -- is Ms. Wood responsible</p>	<p style="text-align: right;">Page 561</p> <p>1 Q And where is the online application located?</p> <p>2 A It is located on the New York Methodist website, the MSO</p> <p>3 of Kings County portion.</p> <p>4 Q So on the New York Methodist website there's a Kings</p> <p>5 County portion?</p> <p>6 A Yes, there is.</p> <p>7 MS. WILCOX: Madam Hearing Officer? I want -- there has</p> <p>8 been extensive discussion in this proceeding about the fact</p> <p>9 that Petitioner has subpoenaed extensive documents in this</p> <p>10 matter. And neither MSO nor New York Methodist Hospital have</p> <p>11 produced any documents, other than what was put in the record</p> <p>12 with respect to the employees employed at 1 Prospect Park West,</p> <p>13 at wound care and urology.</p> <p>14 And so I'm going to object at this time that if the</p> <p>15 Employer has not -- is making reference to the fact that</p> <p>16 there's an online application, you know, the Petitioner's</p> <p>17 requested certain documents and we have not received anything.</p> <p>18 HEARING OFFICER SCHAEFER: <small>Yes, correct.</small></p> <p>19 her?</p> <p>20 MR. FRANK: One, I move to strike it from this record.</p> <p>21 Two, her witnesses testified to this very topic.</p> <p>22 MS. WILCOX: Right, but the -- that has nothing --</p> <p>23 HEARING OFFICER SCHAEFER: <small>That's not correct.</small></p> <p>24 it's not inappropriate to have that kind of -- I'm not striking</p> <p>25 it from the record.</p>
<p style="text-align: right;">Page 560</p> <p>1 for?</p> <p>2 A She ensures that the staff is, you know, in on time,</p> <p>3 providing patient care, you know, to the best possible means.</p> <p>4 Like schedules the staff. Schedules vacations. Schedules</p> <p>5 their days off. Responds to their sick calls.</p> <p>6 Q You said that you were responsible for recruitment?</p> <p>7 A Yes.</p> <p>8 Q How do you recruit employees for MSO of Kings County</p> <p>9 urology practice?</p> <p>10 A There are several ways. One of the ways we use is we use</p> <p>11 an online tracking -- online software, which is called Position</p> <p>12 Manager. I would enter the job that is available, and as</p> <p>13 applicants begin to apply, I look up that record and I, you</p> <p>14 know, review the applicants to see if they're applicable to the</p> <p>15 position.</p> <p>16 If they are, I would call them up, screen them, just to</p> <p>17 get an idea if we're talking about the same type of position.</p> <p>18 If they're qualified to do the job; if they say they can do</p> <p>19 what they say they can do; I question them. And then if</p> <p>20 they're appropriate I would send it over to Suzanne Wood for</p> <p>21 her review.</p> <p>22 Q Okay. And at some point do you conduct interviews?</p> <p>23 A Yes.</p> <p>24 Q Now, is there an online application?</p> <p>25 A Yes, there is.</p>	<p style="text-align: right;">Page 562</p> <p>1 MR. FRANK: Well, I'm -- I'm so moving. But.</p> <p>2 HEARING OFFICER SCHAEFER: <small>That's not correct.</small></p> <p>3 a ruling on your motion.</p> <p>4 What I'm asking is, if there's an intention to -- to</p> <p>5 reference documents that were subpoenaed, at this point I just</p> <p>6 ask that you provide them to the Union at this time.</p> <p>7 MR. FRANK: I'm only intending to reference documents in</p> <p>8 the record.</p> <p>9 HEARING OFFICER SCHAEFER: Okay.</p> <p>10 MR. FRANK: And I renew my motion to strike and --</p> <p>11 HEARING OFFICER SCHAEFER: <small>That's not correct.</small></p> <p>12 MS. WILCOX: And we have a standing -- we have a standing</p> <p>13 objection to the -- to MSO or New York Methodist and New York</p> <p>14 Methodist's position that -- that they're providing documents</p> <p>15 as their witness testifies. Petitioner's is entitle to review</p> <p>16 those documents. And --</p> <p>17 MR. FRANK: We're not doing any such thing.</p> <p>18 HEARING OFFICER SCHAEFER: <small>That's not correct.</small></p> <p>19 counsel -- or MSO's counsel is saying they're not doing that.</p> <p>20 So I'm -- I can't make a ruling if they're not doing it. So.</p> <p>21 Go ahead, Mr. Franks.</p> <p>22 (Pause.)</p> <p>23 MR. FRANK: May I see Feliciano's application?</p> <p>24 HEARING OFFICER SCHAEFER: <small>That's not correct.</small></p> <p>25 MR. FRANK: What?</p>

Page 563	Page 565
<p>1 HEARING OFFICER SCHAEFER: <small>That was one of the notes.</small></p> <p>2 MR. FRANK: Isn't Feliciano's in the record?</p> <p>3 HEARING OFFICER SCHAEFER: <small>Yeah, but not her --</small></p> <p>4 MR. FRANK: What?</p> <p>5 HEARING OFFICER SCHAEFER: <small>You had application.</small></p> <p>6 MR. FRANK: It's not in the record?</p> <p>7 (Pause.)</p> <p>8 DIRECT EXAMINATION (continued)</p> <p>9 BY MR. FRANK:</p> <p>10 Q I'm going to show you what's been marked and entered in</p> <p>11 evidence as MSO Exhibit 8(m). Can you identify -- please?</p> <p>12 A It's an MSO job application.</p> <p>13 Q And is this the online job application?</p> <p>14 A Yes, it is.</p> <p>15 MR. FELSTINER: Which employee is this for, I'm sorry?</p> <p>16 MR. FRANK: That was 8(m).</p> <p>17 HEARING OFFICER SCHAEFER: <small>It's Ketner.</small></p> <p>18 THE WITNESS: Um-hum.</p> <p>19 MR. FELSTINER: Is this document within that packet?</p> <p>20 MR. FRANK: It's a job application.</p> <p>21 HEARING OFFICER SCHAEFER: <small>Looks like this.</small></p> <p>22 MR. FELSTINER: Okay, thank you.</p> <p>23 BY MR. FRANK:</p> <p>24 Q Is Exhibit 8 --</p> <p>25 HEARING OFFICER SCHAEFER: <small>No, you can --</small></p>	<p>1 A Yes.</p> <p>2 Q Now, do the individuals electronically sign the</p> <p>3 agreements?</p> <p>4 A Yes.</p> <p>5 Q Okay. And what are the four signature boxes that people</p> <p>6 sign at the end of the application?</p> <p>7 A They have signatures?</p> <p>8 Q Do all applicants sign the four boxes that are --</p> <p>9 A Yes.</p> <p>10 Q -- indicated on the bottom of that?</p> <p>11 A Yes. "My name typed below, shall have the same force and</p> <p>12 effect as a written signature."</p> <p>13 "I certify that the information contained in this</p> <p>14 application is correct and complete.</p> <p>15 HEARING OFFICER SCHAEFER: Yeah.</p> <p>16 THE WITNESS: Keep going?</p> <p>17 HEARING OFFICER SCHAEFER: <small>It speaks for itself.</small></p> <p>18 THE WITNESS: Okay. Yeah.</p> <p>19 MR. FRANK: Okay.</p> <p>20 BY MR. FRANK:</p> <p>21 Q And are those boxes always checked before an application's</p> <p>22 processed further by MSO?</p> <p>23 A Yes. Yes. You can't complete the application without</p> <p>24 signing electronically.</p> <p>25 Q Now, when you've completed interviewing an applicant, who</p>
Page 564	Page 566
<p>1 MR. FRANK: No, no, that's my copy.</p> <p>2 THE WITNESS: Okay.</p> <p>3 BY MR. FRANK:</p> <p>4 Q Is that the standard job application for people applying</p> <p>5 to MSO of Kings County?</p> <p>6 A Yes.</p> <p>7 Q And is that what the form looks like when it's printed</p> <p>8 out?</p> <p>9 A Yes.</p> <p>10 HEARING OFFICER SCHAEFER: <small>That was the form that.</small></p> <p>11 like when people are filling it out?</p> <p>12 THE WITNESS: Yes, it is.</p> <p>13 HEARING OFFICER SCHAEFER: <small>Okay. All right.</small></p> <p>14 BY MR. FRANK:</p> <p>15 Q Now, there are handwritten comments on that form. Are</p> <p>16 those the comments of the interviewer?</p> <p>17 A Yes, they are.</p> <p>18 Q So those would not be the writings of the applicant?</p> <p>19 A No.</p> <p>20 Q And so when -- in the process of interviewing, if you're</p> <p>21 asking questions about the application, you would then --</p> <p>22 A Write any pertinent notes, yes.</p> <p>23 Q Okay. And those notes that you write on the form would</p> <p>24 not be on the original form? They would be your interview</p> <p>25 notes?</p>	<p>1 else would interview an applicant for urology practice?</p> <p>2 A Suzanne Wood.</p> <p>3 Q And the physicians in the urology practice also possibly</p> <p>4 interview applicants?</p> <p>5 A Possibly.</p> <p>6 Q And after the interview process is completed, what do you</p> <p>7 do next with the applicant?</p> <p>8 A With the applicant?</p> <p>9 Q Yeah.</p> <p>10 A Well, I would discuss it with the office manager. If we</p> <p>11 chose -- if she and I came to agreement that this possible</p> <p>12 candidate we would hire, I would contact the applicant and</p> <p>13 offer them a position.</p> <p>14 Q And do you advise the applicants that they're going to be</p> <p>15 working for MSO of Kings County?</p> <p>16 A Yes.</p> <p>17 Q And then you send out a letter?</p> <p>18 A Yes.</p> <p>19 (Pause.)</p> <p>20 MR. FRANK: This is also from 8(m).</p> <p>21 BY MR. FRANK:</p> <p>22 Q Can you identify this -- describe what this document is?</p> <p>23 A This document is an offer letter from MSO of Kings County</p> <p>24 to the applicant with their rate of pay.</p> <p>25 Q Okay. Which applicant did this letter go to?</p>

<p style="text-align: right;">Page 567</p> <p>1 A Abigail Ketner.</p> <p>2 Q And what does the first paragraph in the document -- can</p> <p>3 you read the first line?</p> <p>4 A Sure. "We are pleased to offer a full-time position, 75</p> <p>5 hours bi-weekly, of physician assistant at MSO of Kings County,</p> <p>6 effective July 20, 2015."</p> <p>7 Q Thank you.</p> <p>8 Do all of the offer letters of employment start out</p> <p>9 similarly, that the offer of employment, this is for a job</p> <p>10 title at MSO of Kings County?</p> <p>11 A Yes.</p> <p>12 Q Okay. And you have the individuals sign the document?</p> <p>13 A Yes.</p> <p>14 Q And that's how they indicate their acceptance?</p> <p>15 A Yes.</p> <p>16 Q And is it your standard practice to identify the salary</p> <p>17 rate that people will be paid in the offer letters?</p> <p>18 A Yes.</p> <p>19 Q Okay. And is it also standard to provide for at-will</p> <p>20 employment?</p> <p>21 A In?</p> <p>22 Q In the second to the last paragraph.</p> <p>23 A Yes. At -- oh, at-will, yes.</p> <p>24 Q And is the appoints, are they always made conditional, as</p> <p>25 set forth in the middle paragraph?</p>	<p style="text-align: right;">Page 569</p> <p>1 in the urology practice?</p> <p>2 A Yes. Um-hum.</p> <p>3 Q And both Ms. Wood and Ms. Chan have title of office</p> <p>4 manager? Or --</p> <p>5 A Suzanne is office manager and Karen Chan is director.</p> <p>6 Q Thank you.</p> <p>7 Now, are you involved in adjusting salaries for MSO</p> <p>8 employees?</p> <p>9 A Yes.</p> <p>10 Q What is your involvement in adjusting salaries for MSO</p> <p>11 employees?</p> <p>12 A My involvement would be revising -- you know, looking at</p> <p>13 the salary grids and ensuring that they were within market.</p> <p>14 Reviewing other employees of that same discipline, ensuring</p> <p>15 that they are within similar job rates.</p> <p>16 Q When you referred to "market," you were referring to</p> <p>17 physician office practices?</p> <p>18 A Yeah, physician, yeah, sure.</p> <p>19 Q Now, do the physicians in the urology practice maintain</p> <p>20 offices separate from 1 Prospect Park?</p> <p>21 A Yes, the do.</p> <p>22 Q And do the MSO employees sometimes go to the physician</p> <p>23 offices away --</p> <p>24 A Yes.</p> <p>25 Q -- from 1 Prospect Park?</p>
<p style="text-align: right;">Page 568</p> <p>1 A Yes.</p> <p>2 Q Okay. So what's contained in this offer letter is the</p> <p>3 standard form letter for MSO of Kings County?</p> <p>4 A Yes.</p> <p>5 Q All right. And is that generally applicable to all new</p> <p>6 hires?</p> <p>7 A Yes.</p> <p>8 Q Now, if an employee has to be disciplined, are you -- are</p> <p>9 you involved in that process?</p> <p>10 A Yes, I am.</p> <p>11 Q And what is your involvement in the discipline process at</p> <p>12 MSO of Kings County?</p> <p>13 A I'm responsible for the language in the discipline. The</p> <p>14 discussion of the discipline. The discussion with the manager</p> <p>15 with the discipline. All of the particulars that will be</p> <p>16 involved in the discipline.</p> <p>17 Q Now, is there also a separate manager for the wound care</p> <p>18 practice?</p> <p>19 A Yes.</p> <p>20 Q Who is the manager for the wound care practice?</p> <p>21 A Karen Chan.</p> <p>22 Q And is the responsible for disciplining employees in the</p> <p>23 wound care practice?</p> <p>24 A Yes.</p> <p>25 Q And is Suzanne Wood responsible for disciplining employees</p>	<p style="text-align: right;">Page 570</p> <p>1 A They always do. Yes. They staff it.</p> <p>2 Q Do the MSO employees at 1 Prospect Park in the urology</p> <p>3 practice ever work in the New York Methodist Hospital?</p> <p>4 A No.</p> <p>5 Q And what is your professional background?</p> <p>6 A I am -- I have 22 years in the human resources field. I</p> <p>7 have, prior to that 13 years working for JP Morgan as a manager</p> <p>8 of what was called then word processing centers, who service</p> <p>9 the facilities for any word processing needs they may need.</p> <p>10 Q Now, do employees of MSO of Kings County wear</p> <p>11 identification badges?</p> <p>12 A Yes.</p> <p>13 Q Okay. And would you describe the badges?</p> <p>14 A The badges are vertical and they have their picture in the</p> <p>15 front, and then they have a yellow stripe on both sides. They</p> <p>16 have New York Methodist on the top, and there's a barcode on</p> <p>17 the bottom.</p> <p>18 HEARING OFFICER SCHAEFER: _____</p> <p>19 MR. FRANK: Okay.</p> <p>20 BY MR. FRANK:</p> <p>21 Q And what does the yellow stripe indicate?</p> <p>22 A Contractor employee/MSO of Kings County.</p> <p>23 Q Now, now hospital employees have what color on their</p> <p>24 badges?</p> <p>25 A Blue. Blue badges.</p>

<p style="text-align: right;">Page 571</p> <p>1 Q And does -- who is the physician who is the senior 2 practitioner at urology practice? 3 A Dr. Grunberger. 4 Q Is his practice also known as Brooklyn Urology? 5 A Yes. 6 Q Now, approximately how many lawyers work in the -- 7 HEARING OFFICER SCHAEFER: Lawyers? 8 THE WITNESS: None. 9 UNIDENTIFIED MALE SPEAKER: _____ 10 THE WITNESS: If I would have said five, we would be in 11 trouble. 12 MR. FRANK: Got me there. 13 BY MR. FRANK: 14 Q How many physicians? 15 A Well, I got say approximately four. 16 Q Okay. 17 A Grunberger, Sultan -- 18 Q And is the website -- does Brooklyn Urology have its own 19 website? 20 A Yes. 21 Q Now, the doctors performance some procedures at 1 Prospect 22 Park? 23 A Very light, minor procedures. Yes, they do. 24 Q And when procedures are performed at 1 Prospect Park, 25 which employees work with the physician?</p>	<p style="text-align: right;">Page 573</p> <p>1 A The front desk. The assistants. 2 Q Do the office assistants input any patient demographic 3 information? 4 A In urology? 5 Q Yes. 6 A They may, yes. 7 Q Okay. And what system -- do you know what system they use 8 for inputting information? 9 A They have two systems. They have a urology -- no, 10 urology.com, I'm pretty sure. 11 Q That's for urology? 12 A For urology. Specific to urology patients. 13 Q Okay. And what is the -- is there a hospital system for 14 patient information? 15 A There is, yes. 16 Q And what is that called? 17 A Cerner. 18 Q That's a separate system from the urology practice? 19 A Yes. 20 Q Does Cerner provide training on the Cerner system? 21 A Yes. 22 Q What kind of training does Cerner provide? 23 A Cerner provides implementation (sic), you know, implementation 24 of the product. They provide any training that the employees 25 may need for that system.</p>
<p style="text-align: right;">Page 572</p> <p>1 A The physician assistant, LPN, I mean, clinical assistant, 2 CS/LPN, um-hum. RN. 3 Q Okay. And if the physician performs procedures in the 4 hospital, do any of the MSO employees work in the hospital? 5 A No. 6 Q What do the physician assistants do? What is their job? 7 A Physicians assistants, they basically can assess a 8 patient. They can work independently. And they can prescribe 9 medication. They can follow-up on treatment with the patient, 10 ensuring that they get the next form of treatment. 11 Q What do the administrative assistants do? 12 A Administrative assistants, they answer the telephones at 13 the front desk. They book appointments. They do surgical 14 bookings. They validate insurance. They -- hmm? What's it 15 they do? 16 Q Do they sit at the front desk? 17 A Oh, yes. Yes, they do. 18 Q What do they do at the front desk? 19 A They do greet the patients when they come in. Find out 20 why they're there. Make sure their insurance is up to date. 21 Take copies of that. 22 Q Okay. Do they send any correspondence to patients or 23 write letters to patients? 24 A Well, they may do that, yes. 25 Q Who collects co-pays from patients?</p>	<p style="text-align: right;">Page 574</p> <p>1 Q And do MSO employees receive a day or two of Cerner 2 training? 3 A MSO -- yes. 4 Q What does -- can you describe what the clinical assistants 5 do? I mean, I -- you mentioned LPNs. They have an LPN 6 license? 7 A They have an LPN license, yes. 8 Q And what do they do? 9 A They -- they also assistant the patient. They make sure 10 that their histories are accurate. They can do vitals. They 11 can give them injections. 12 Q And do they assist the doctor in the examination rooms? 13 A Yes. 14 Q Is all of their work done at 1 Prospect Park Suite C? 15 A That -- yes. As well -- yes. As well as maybe the other 16 off-sites. 17 Q Okay. And when you say "off-sites," those are the 18 physician offices? 19 A Urology off-sites. 20 Q Of the individual -- 21 A Yes. 22 Q -- practitioners? 23 A Yes. 24 Q Okay. Is there registered nurses? 25 A Yes.</p>

<p style="text-align: right;">Page 575</p> <p>1 Q And what do they do?</p> <p>2 A They can help and they do help in the procedure room.</p> <p>3 They assist the doctors.</p> <p>4 Q And do they have registered nurses license?</p> <p>5 A Yes.</p> <p>6 Q And are they involved with anesthesia?</p> <p>7 A Yes.</p> <p>8 Q Are there physician assistants? Excuse me, are there</p> <p>9 physician assistants?</p> <p>10 A Yes.</p> <p>11 Q Okay. What do they do?</p> <p>12 MS. WILCOX: Asked and answered.</p> <p>13 HEARING OFFICER SCHAEFER: <small>Heard, Not read audio file</small></p> <p>14 MS. WILCOX: We went over this.</p> <p>15 MR. FRANK: Not --</p> <p>16 HEARING OFFICER SCHAEFER: <small>Do you want the patient</small></p> <p>17 assistants?</p> <p>18 MS. WILCOX: You mean patient assistants?</p> <p>19 MR. FRANK: I meant --</p> <p>20 (Counsel confer.)</p> <p>21 BY MR. FRANK:</p> <p>22 Q What do the patient assistants do?</p> <p>23 A Patient assistants, they also are involved with the</p> <p>24 patient. They will bring them to the rooms. They will do</p> <p>25 vitals. Take their, you know, temperature, their blood</p>	<p style="text-align: right;">Page 577</p> <p>1 HEARING OFFICER SCHAEFER: Well --</p> <p>2 THE WITNESS: Are we talking about physician assistants or</p> <p>3 RNs, I'm sorry.</p> <p>4 BY MR. FRANK:</p> <p>5 Q RNs. I'm sorry. I asked you about physician assistants,</p> <p>6 you said there were two.</p> <p>7 HEARING OFFICER SCHAEFER: <small>Is that what you're asking</small></p> <p>8 practice group you're talking about, too.</p> <p>9 MR. FRANK: Urology.</p> <p>10 HEARING OFFICER SCHAEFER: <small>Yeah. Okay.</small></p> <p>11 BY MR. FRANK:</p> <p>12 Q All right, we have two physician assistants in urology.</p> <p>13 A Um-hum.</p> <p>14 Q And you said there are two RNs in urology?</p> <p>15 A Yes. Per --</p> <p>16 Q Okay.</p> <p>17 HEARING OFFICER SCHAEFER: <small>That's what I heard</small></p> <p>18 diem?</p> <p>19 THE WITNESS: Per diems.</p> <p>20 HEARING OFFICER SCHAEFER: Okay.</p> <p>21 THE WITNESS: I don't think they were on the list.</p> <p>22 BY MR. FRANK:</p> <p>23 Q What are the locations that the staff rotates to? Do you</p> <p>24 recall them?</p> <p>25 A One's Linden Boulevard. One of them is Greenpoint. And</p>
<p style="text-align: right;">Page 576</p> <p>1 pressure. Ensure that the doctor that will see them has all</p> <p>2 the proper information before seeing them --</p> <p>3 Q Do they --</p> <p>4 A -- for that appointment.</p> <p>5 Q -- interview patients?</p> <p>6 A Excuse me?</p> <p>7 A Do they interview the patients?</p> <p>8 A Yes.</p> <p>9 Q Do they draw blood?</p> <p>10 A Patient assistants, yes.</p> <p>11 Q And how many physician assistants are there?</p> <p>12 MS. WILCOX: Physician?</p> <p>13 BY MR. FRANK:</p> <p>14 Q Physician assistants.</p> <p>15 A Physician, oh, two.</p> <p>16 Q Okay. How many registered nurses are there?</p> <p>17 A Two.</p> <p>18 Q And is one of the two the office manager?</p> <p>19 A Are we talking about urology? Yeah.</p> <p>20 Q Urology.</p> <p>21 A No.</p> <p>22 Q No, okay.</p> <p>23 HEARING OFFICER SCHAEFER: <small>What are you asking</small></p> <p>24 two in --</p> <p>25 THE WITNESS: They're per diems. Two per diems.</p>	<p style="text-align: right;">Page 578</p> <p>1 the other one is Dyker Heights.</p> <p>2 Q Do any Methodist Hospital employees work in the urology</p> <p>3 practice?</p> <p>4 A No.</p> <p>5 Q What health benefits are provided to employees in the</p> <p>6 urology practice?</p> <p>7 A They have a choice of four packages. They have health.</p> <p>8 Also vision and dental.</p> <p>9 HEARING OFFICER SCHAEFER: <small>What are you asking</small></p> <p>10 that the different companies? Or different packages?</p> <p>11 THE WITNESS: Both. There's a United Healthcare EPO,</p> <p>12 United Healthcare POS, the high deductible health plan, and a</p> <p>13 New York Methodist doctor health plan.</p> <p>14 HEARING OFFICER SCHAEFER: <small>What are you asking</small></p> <p>15 health plan?</p> <p>16 THE WITNESS: Yes.</p> <p>17 HEARING OFFICER SCHAEFER: <small>What are you asking</small></p> <p>18 one, what company is that one with?</p> <p>19 THE WITNESS: United Healthcare.</p> <p>20 HEARING OFFICER SCHAEFER: <small>What are you asking</small></p> <p>21 Healthcare?</p> <p>22 THE WITNESS: Yeah.</p> <p>23 HEARING OFFICER SCHAEFER: Okay.</p> <p>24 THE WITNESS: Um-hum.</p> <p>25 HEARING OFFICER SCHAEFER: <small>That's fine.</small></p>

<p style="text-align: right;">Page 579</p> <p>1 BY MR. FRANK:</p> <p>2 Q Do employees have vacation?</p> <p>3 A Yes, they do.</p> <p>4 Q How are vacations scheduled?</p> <p>5 A Vacations are scheduled according to the allotment or</p> <p>6 the -- when they want --</p> <p>7 Q How do you do the schedules for vacations?</p> <p>8 A Well, if --</p> <p>9 Q Do they get approved or --</p> <p>10 A Yeah, they -- oh, yes, they get approved. If someone puts</p> <p>11 in for a vacation --</p> <p>12 Q Who do they put into vacation for?</p> <p>13 A They put it into the office manager, Suzanne Wood. She</p> <p>14 would look at their -- the calendar to see if there was any</p> <p>15 discrepancies and either deny or approve the vacation.</p> <p>16 Q Is there a 401(k) plan?</p> <p>17 A Yes, there is.</p> <p>18 Q Can you -- what is the 401(k) plan?</p> <p>19 A 401(k) plan is MSO of Kings County contribution to each</p> <p>20 employee after one year of service. They could also contribute</p> <p>21 to it if they would like.</p> <p>22 Q And are all MSO of Kings County employees eligible to</p> <p>23 participate in that 401(k) plan?</p> <p>24 A Yes.</p> <p>25 Q And would that include MSO of Kings County employees other</p>	<p style="text-align: right;">Page 581</p> <p>1 private practices. So any physician practices.</p> <p>2 Q And all -- are all of -- when you say "private practices,"</p> <p>3 you're reserve -- referring to physician practices?</p> <p>4 A Yes.</p> <p>5 HEARING OFFICER SCHAEFER: <small>That's how they pay</small></p> <p>6 mentioned; Linden Boulevard, Greenpoint, and Dyker Heights.</p> <p>7 Are those MSO practices?</p> <p>8 THE WITNESS: They're MSO urology. They're part of</p> <p>9 Brooklyn Urology's practice.</p> <p>10 HEARING OFFICER SCHAEFER: Okay.</p> <p>11 THE WITNESS: They're --</p> <p>12 HEARING OFFICER SCHAEFER: <small>Is there a separate office?</small></p> <p>13 guess, the individuals who work there, are MSO employees, as</p> <p>14 well?</p> <p>15 THE WITNESS: Yes, they are.</p> <p>16 MR. FRANK: Okay.</p> <p>17 BY MR. FRANK:</p> <p>18 Q MSO urology, some of the physicians have private offices.</p> <p>19 A Yes.</p> <p>20 Q Okay. And that the staff members in the urology practice</p> <p>21 would go to those offices?</p> <p>22 A Yes.</p> <p>23 Q Okay. Separate from the urology practice, how many</p> <p>24 practices do you oversee?</p> <p>25 A Except for them? Fourteen.</p>
<p style="text-align: right;">Page 580</p> <p>1 than those who work at these -- at the urology and the wound</p> <p>2 care practice?</p> <p>3 A Yes.</p> <p>4 Q Answer?</p> <p>5 A Yes.</p> <p>6 HEARING OFFICER SCHAEFER: <small>Is there a separate office?</small></p> <p>7 want to do that now, but if you're going hit it, I would be</p> <p>8 interested in learning more about if there are other MSO</p> <p>9 employees at other locations? Just hitting that. You can work</p> <p>10 it in as --</p> <p>11 BY MR. FRANK:</p> <p>12 Q Does -- are there other locations beside the two locations</p> <p>13 we've talked about in this record and the other record?</p> <p>14 A Other MSO --</p> <p>15 Q Yes.</p> <p>16 A -- facilities? Yes.</p> <p>17 Q Yes. Okay, approximately how many different --</p> <p>18 A Oh, it's about 15.</p> <p>19 Q Okay. That -- do I understand correctly that your</p> <p>20 responsibilities are only for the urology practice and the</p> <p>21 wound care practice?</p> <p>22 A No.</p> <p>23 Q Oh, okay. What -- how many -- how many facilities are</p> <p>24 you --</p> <p>25 A I'm responsible -- I over -- I oversee all of the MSO</p>	<p style="text-align: right;">Page 582</p> <p>1 Q Okay. And that's not referring to the separate offices of</p> <p>2 the physicians?</p> <p>3 A No. No.</p> <p>4 HEARING OFFICER SCHAEFER: <small>Is it like 15 other</small></p> <p>5 practices? Irrespective of how many offices each practice has?</p> <p>6 MR. FRANK: Yes, that's -- nothing to do with what we're</p> <p>7 talking about.</p> <p>8 HEARING OFFICER SCHAEFER: Okay.</p> <p>9 BY MR. FRANK:</p> <p>10 Q What is Consolidated Risk Management? Is there a company</p> <p>11 known as Consolidated Risk Management?</p> <p>12 A That would be the life insurance. Consolidated Risk</p> <p>13 Management? I'm not familiar with --</p> <p>14 Q Does anyone do training for emergency situations of the</p> <p>15 MSO employees?</p> <p>16 A Yes.</p> <p>17 Q Who does training --</p> <p>18 A Consolidated --</p> <p>19 Q -- of MSO employees --</p> <p>20 A Consolidated.</p> <p>21 Q -- for emergency situations?</p> <p>22 A Consolidated Risk Management.</p> <p>23 Q Relax.</p> <p>24 A I'm sorry.</p> <p>25 Q You don't have to be nervous.</p>

<p style="text-align: right;">Page 583</p> <p>1 What kind of training does -- is provided to MSO employees 2 regarding emergency situations? 3 A Any trauma that may occur. Emergency situations that can 4 occur at the facilities. 5 Q And how frequently is that training performed? 6 A It can be twice a year. 7 Q What is UroCare? 8 A UroCare is the software system that urology uses for their 9 patient electronic medical record. 10 Q And who maintains that system? 11 A UroCare. Company that provides the software. 12 Q Is that a separate from Methodist Hospital? 13 A Yes. 14 Q And who maintains the Cerner system? 15 A Cerner company employees. 16 Q That's the hospital system? 17 A Yes, it is. 18 Q What is doctor.com? 19 A Doctor.com is a registration -- a patient registration 20 system that is used in urology. 21 Q What is it used for? 22 A Patient registration. Putting in demographics. 23 Q Is that separate from the hospital systems? 24 A Yes. 25 Q And how do employees record their time?</p>	<p style="text-align: right;">Page 585</p> <p>1 registered nurse level? 2 A Oh, we have clinical -- two clinical assistants, a 3 hyperbaric tech, office assistant, and -- I'm losing it. 4 Patient -- two clinical assistants -- I'm losing it. 5 Q Approximately five employees? 6 A Oh, yeah, five. 7 Q And all of the employee files have been put into the 8 record? 9 A Yes. 10 Q Prior to today? 11 A Yes. 12 Q Okay. And those are the employees of the wound care 13 practice? 14 A Yes. Yes. 15 Q Okay. And then we also put in the file records for the 16 employees of the urology practice? 17 A Yes. 18 HEARING OFFICER SCHAEFER: <small>On the record</small> 19 that. I know that you did that. I mean, the -- we don't need 20 the -- it's -- just move on. 21 MR. FRANK: Well, I -- it goes on the side of the other 22 record. 23 BY MR. FRANK: 24 Q What do the clerical -- two clerical employees in the 25 Wound Care Center do?</p>
<p style="text-align: right;">Page 584</p> <p>1 A They record their time through a Kronos system. They log 2 on to a computer, timestamp function. 3 (Pause.) 4 MR. FRANK: Can we go off the record for a second? 5 HEARING OFFICER SCHAEFER: <small>Yes. Off the record.</small> 6 (Whereupon, a brief recess was taken.) 7 HEARING OFFICER SCHAEFER: <small>Back on the record.</small> 8 DIRECT EXAMINATION (continued) 9 BY MR. FRANK: 10 Q How many employees does MSO of Kings County employee at 11 the urology practice below the level of registered nurse? 12 A Below the level? 13 Q Yeah. 14 A We have office assistants, administrative assistants; 15 probably have 11 of those. What else do we have? I'm 16 thinking. 17 Q And the -- 18 MS. WILCOX: I'm sorry. I didn't hear what you said, 19 quite, "11 of those," meaning office assistants? 20 THE WITNESS: Office assistants with administrative 21 assistants. 22 BY MR. FRANK: 23 Q Approximately 11 employees? 24 A Approximately. 25 Q In the wound care practice, how many employees below the</p>	<p style="text-align: right;">Page 586</p> <p>1 A What do they do? They greet patients. They answer the 2 telephone. They book appointments. They take patient 3 information, ensuring that they're up -- information is 4 updated. Copies of their insurance card. ID. They may, you 5 know, type letters as requested. 6 Q Okay. And who's the director of that office? 7 A Karen Chan. 8 Q And is she the registered nurse? 9 A Yes, she is. 10 Q Does she also interview employees for hiring? 11 A Yes, she does. 12 Q And who's responsible for disciplining employees in the 13 Wound Care Center? 14 A Karen Chan. 15 Q Let me ask you this; we went through all these categories 16 of things that Suzanne Wood and you do in the urology practice. 17 A Yeah. 18 Q Does Karen Chan have the responsibilities in the wound 19 care practice as the office manager? As Suzanne Wood? 20 A Yes. 21 Q For example, does she -- vacation requests -- 22 A Yes. She -- 23 Q -- what does Ms. Chan do with vacation requests? 24 A She accepts the requests. Checks the schedule. Approves 25 or denies.</p>

<p style="text-align: right;">Page 587</p> <p>1 Q What about sick leave requests?</p> <p>2 A Same thing. She would accept them --</p> <p>3 MR. FRANK: For the record, that was --</p> <p>4 THE WITNESS: Oh, I'm sorry. Take -- if someone calls in,</p> <p>5 she accepts that telephone call that the person's going to be</p> <p>6 out sick.</p> <p>7 BY MR. FRANK:</p> <p>8 Q And how does she cover sick leave absences? What does she</p> <p>9 do?</p> <p>10 A She -- it depends on how long that person may be out. If</p> <p>11 the person was out for extended period of time, she may request</p> <p>12 a temporary employee. She --</p> <p>13 Q Would that request go to you?</p> <p>14 A Yes.</p> <p>15 Q And are hospital employees ever rotated into the MSO</p> <p>16 practice?</p> <p>17 A No. Not at all.</p> <p>18 Q What does the certified hyperbaric technician do?</p> <p>19 A He's --</p> <p>20 HEARING OFFICER SCHAEFER: <small>If you know.</small></p> <p>21 THE WITNESS: Yeah.</p> <p>22 BY MR. FRANK:</p> <p>23 Q If you know.</p> <p>24 A I would have learned. He's responsible for the oxygen for</p> <p>25 those chambers. He's responsible for the chambers, ensuring</p>	<p style="text-align: right;">Page 589</p> <p>1 Q Now, in addition to the urology practice, that's in Suite</p> <p>2 C?</p> <p>3 A Um-hum.</p> <p>4 Q Would you describe Suite C for us? You know, how many</p> <p>5 rooms? What it looks like?</p> <p>6 A There -- there are five exam rooms and they have a waiting</p> <p>7 room. They have a reception area when you first walk in.</p> <p>8 Q And Suite D, the Wound Care Center, would you describe</p> <p>9 that?</p> <p>10 A Wound Care Center, let's see, there's a doctor's office,</p> <p>11 several exam rooms.</p> <p>12 Q Now, in 1 Prospect Park West are there other practices in</p> <p>13 the building?</p> <p>14 A Yes.</p> <p>15 Q Okay. A pediatric practice?</p> <p>16 A Yes.</p> <p>17 Q Okay. And are there multiple tenants in the building,</p> <p>18 other than Suite B and Suite C --</p> <p>19 A Yes.</p> <p>20 Q -- that we've been talking about?</p> <p>21 A Yes.</p> <p>22 Q And is there a common hallway?</p> <p>23 A Yes.</p> <p>24 Q Okay. And is there an entrance to the X-ray practice down</p> <p>25 the hall from Suite B?</p>
<p style="text-align: right;">Page 588</p> <p>1 that they are kept up to par. Ensures that the patients are</p> <p>2 properly treated in those chambers.</p> <p>3 Q Does MSO have any involvement with the X-ray suite?</p> <p>4 A No.</p> <p>5 Q And are there two clinical assistants in wound care?</p> <p>6 HEARING OFFICER SCHAEFER: <small>Can I --</small></p> <p>7 MR. FRANK: Sure.</p> <p>8 HEARING OFFICER SCHAEFER: <small>-----</small></p> <p>9 clarifying -- I'm going to have more questions about leaving</p> <p>10 that at "no," in terms of that answer, about MSO having any</p> <p>11 involvement, because I think "involvement" is vague. So I</p> <p>12 could ask the questions later, or I'm going to give you an</p> <p>13 opportunity now to clarify what you meant by "involvement."</p> <p>14 MR. FRANK: Okay.</p> <p>15 BY MR. FRANK:</p> <p>16 Q Next Suite B there's an X-ray facility?</p> <p>17 A Yes.</p> <p>18 Q Is that a hospital facility?</p> <p>19 A Yes.</p> <p>20 Q Okay. Do MSO employees take X-rays at the 1 Prospect</p> <p>21 Park?</p> <p>22 A No.</p> <p>23 Q Do the -- does MSO -- do MSO employees have any</p> <p>24 responsibility for scheduling the X-rays?</p> <p>25 A No.</p>	<p style="text-align: right;">Page 590</p> <p>1 A Yes.</p> <p>2 Q Okay. And Suite C has its own entrance?</p> <p>3 A Yes.</p> <p>4 Q Okay. And is it a fact that there's a door from the X-ray</p> <p>5 suite into Suite B, as well?</p> <p>6 A Yes.</p> <p>7 Q Okay.</p> <p>8 HEARING OFFICER SCHAEFER: <small>-----</small></p> <p>9 THE WITNESS: No.</p> <p>10 BY MR. FRANK:</p> <p>11 Q How many story building is this?</p> <p>12 HEARING OFFICER SCHAEFER: <small>From the wing building?</small></p> <p>13 THE WITNESS: It's a very large building.</p> <p>14 HEARING OFFICER SCHAEFER: <small>But are all --</small></p> <p>15 BY MR. FRANK:</p> <p>16 Q Ten-story building?</p> <p>17 A Much more.</p> <p>18 Q Much more.</p> <p>19 A Yeah. Could be 20.</p> <p>20 Q Twenty-story building?</p> <p>21 A Could be, yeah. It's got --</p> <p>22 Q Now, we're talking --</p> <p>23 A -- tenants in it.</p> <p>24 Q What?</p> <p>25 A It has tenants in it.</p>

<p style="text-align: right;">Page 591</p> <p>1 HEARING OFFICER SCHAEFER: <small>Like residential?</small></p> <p>2 THE WITNESS: Residential.</p> <p>3 HEARING OFFICER SCHAEFER: <small>How, first floor?</small></p> <p>4 are they on the first floor?</p> <p>5 THE WITNESS: Well, would you walk up the ramp. I guess</p> <p>6 you would call that the first floor, yes.</p> <p>7 HEARING OFFICER SCHAEFER: <small>Okay. All right.</small></p> <p>8 THE WITNESS: In the lobby, there are a few stairs.</p> <p>9 HEARING OFFICER SCHAEFER: Okay.</p> <p>10 BY MR. FRANK:</p> <p>11 Q Okay, so this is a large building with many practices in</p> <p>12 it?</p> <p>13 A Yes.</p> <p>14 HEARING OFFICER SCHAEFER: <small>Well, she said --</small></p> <p>15 BY MR. FRANK:</p> <p>16 Q And --</p> <p>17 HEARING OFFICER SCHAEFER: <small>-- a residential --</small></p> <p>18 BY MR. FRANK:</p> <p>19 Q And then there are also residential floors in the</p> <p>20 building?</p> <p>21 A Yes.</p> <p>22 Q Does MSO of Kings County have its own tax ID number?</p> <p>23 A Yes.</p> <p>24 Q Okay. And is that number inserted on all of the tax ID</p> <p>25 forms?</p>	<p style="text-align: right;">Page 593</p> <p>1 A Yes, it does.</p> <p>2 Q Okay. And that number is inserted on W-4 forms?</p> <p>3 A Yes.</p> <p>4 Q And on state tax withholding forms?</p> <p>5 A Yes.</p> <p>6 HEARING OFFICER SCHAEFER: <small>You can move on.</small></p> <p>7 MR. FRANK: Okay.</p> <p>8 BY MR. FRANK:</p> <p>9 Q Do MSO employees have uniform requirements? Do they have</p> <p>10 to wear uniforms?</p> <p>11 A They don't have to.</p> <p>12 Q Where do employees eat lunch?</p> <p>13 A There is a kitchen/restroom area, I guess a break area,</p> <p>14 that they use the facilities. Sit and eat. A microwave.</p> <p>15 Q What are the office hours?</p> <p>16 A The office -- are we talking about wound care?</p> <p>17 Q Yes, wound care.</p> <p>18 A Okay. Well, it could be from 8:30 to 4:30, 9 to 5, 9:30</p> <p>19 to 5:30. They vary depending on -- sometimes they may have a</p> <p>20 more heavy schedule, so they'll adjust it.</p> <p>21 Q Monday to Friday?</p> <p>22 A Monday to Friday.</p> <p>23 Q And the office hours for urology?</p> <p>24 A They are basically the same. They could be 8:30 to 4:30,</p> <p>25 9 to 5, 9:30 to 5:30.</p>
<p style="text-align: right;">Page 592</p> <p>1 A Yes.</p> <p>2 Q As an Employer ID Number?</p> <p>3 A Yes.</p> <p>4 Q And to your knowledge, is that a different Employer ID</p> <p>5 Number than New York Methodist Hospital?</p> <p>6 A Yes.</p> <p>7 Q And those numbers were redacted when documents were --</p> <p>8 A Yes.</p> <p>9 HEARING OFFICER SCHAEFER: <small>There was redacted --</small></p> <p>10 eventually need to have a conversation about that, because some</p> <p>11 of the documents, they're not redacted because they were</p> <p>12 specifically shown, but we can -- shown to employees to</p> <p>13 differentiate between them. The first witnesses. So we'll</p> <p>14 have that discussion later.</p> <p>15 MR. FRANK: I don't --</p> <p>16 HEARING OFFICER SCHAEFER: <small>-- they're redacted --</small></p> <p>17 their intention is to redact them, then we need to have that</p> <p>18 conversation.</p> <p>19 MR. FRANK: There's -- I noticed on some forms they</p> <p>20 were --</p> <p>21 HEARING OFFICER SCHAEFER: <small>On some forms it is.</small></p> <p>22 MR. FRANK: -- and some they were not. But all I'm trying</p> <p>23 to establish --</p> <p>24 BY MR. FRANK:</p> <p>25 Q MSO of Kings County has its own Employer ID Number?</p>	<p style="text-align: right;">Page 594</p> <p>1 Q Daytime hours?</p> <p>2 A Daytime hours. Monday to Friday.</p> <p>3 Q Are either the wound care practice or the urology practice</p> <p>4 open overnight? Or are these just daytime practices?</p> <p>5 A No, they are daytime practices.</p> <p>6 Q Do MSO employees in the wound care office ever work in New</p> <p>7 York Methodist Hospital?</p> <p>8 A No.</p> <p>9 Q Do wound -- do urology employees at -- in the 1 Prospect</p> <p>10 Park Plaza (sic), do they ever work at New York Methodist</p> <p>11 Hospital?</p> <p>12 A No.</p> <p>13 MR. FRANK: No further questions.</p> <p>14 HEARING OFFICER SCHAEFER: <small>Are you okay?</small></p> <p>15 THE WITNESS: I'm good.</p> <p>16 HEARING OFFICER SCHAEFER: <small>All right. If you need</small></p> <p>17 anything, let me know.</p> <p>18 THE WITNESS: No, I'm okay.</p> <p>19 HEARING OFFICER SCHAEFER: <small>All right.</small></p> <p>20 MR. FRANK: So -- can I ask one more question?</p> <p>21 HEARING OFFICER SCHAEFER: Sure.</p> <p>22 DIRECT EXAMINATION (continued)</p> <p>23 BY MR. FRANK:</p> <p>24 Q When employees complete the electronic application, do you</p> <p>25 stamp MSO of Kings County on their W-4 forms after they</p>

<p style="text-align: right;">Page 595</p> <p>1 complete that?</p> <p>2 A Yes.</p> <p>3 HEARING OFFICER SCHAEFER: <small>You have the stamp?</small></p> <p>4 THE WITNESS: Yes.</p> <p>5 BY MR. FRANK:</p> <p>6 Q And the same thing on --</p> <p>7 HEARING OFFICER SCHAEFER: <small>You have to see that?</small></p> <p>8 THE WITNESS: Yes.</p> <p>9 HEARING OFFICER SCHAEFER: Yes.</p> <p>10 BY MR. FRANK:</p> <p>11 Q But that doesn't show up on the electronic submission?</p> <p>12 A No, it doesn't.</p> <p>13 Q Okay. That's something you add?</p> <p>14 A Yeah. We have to, yeah.</p> <p>15 Q When -- before you file that?</p> <p>16 A Yes. When we're processing paperwork.</p> <p>17 MR. FELSTINER: You're saving me time.</p> <p>18 HEARING OFFICER SCHAEFER: <small>You ready?</small></p> <p>19 MR. FELSTINER: Yes.</p> <p>20 CROSS-EXAMINATION</p> <p>21 BY MR. FELSTINER:</p> <p>22 Q Ms. Kennedy, what floor of the 9th Street office do you</p> <p>23 work on?</p> <p>24 A Second floor.</p> <p>25 Q Is there a room number?</p>	<p style="text-align: right;">Page 597</p> <p>1 Q Does -- is there any -- strike that.</p> <p>2 Does it say MSO anywhere on the building at 435 9th</p> <p>3 Street?</p> <p>4 A No.</p> <p>5 Q Is Geina Keller formerly Geina Cordero?</p> <p>6 A Yes.</p> <p>7 Q Okay. But Keller is a --</p> <p>8 A Married name.</p> <p>9 Q -- married name?</p> <p>10 A Um-hum.</p> <p>11 Q Okay. We had heard about that.</p> <p>12 A Yes.</p> <p>13 Q How often are you at the Wound Care Center at 1 Prospect</p> <p>14 Park West? Physically present.</p> <p>15 A A few times.</p> <p>16 Q A few times?</p> <p>17 A Since I've started working at MSO of Kings County.</p> <p>18 Q Since you started in middle of 2015, you've been at the</p> <p>19 Wound Care Center a few times?</p> <p>20 A Yes.</p> <p>21 Q And how about at urology?</p> <p>22 A Same thing. Because they're both in the same building,</p> <p>23 it's easy for me to go to see both --</p> <p>24 Q How often --</p> <p>25 A -- at the same time.</p>
<p style="text-align: right;">Page 596</p> <p>1 A No.</p> <p>2 Q And where on the second floor?</p> <p>3 A You would go in, there's the lobby, you make a left down</p> <p>4 the hall and I'm the fourth office. In the corner.</p> <p>5 Q Who else works on that floor, if you know?</p> <p>6 A The receptionist Melissa. Geina Keller. Ann Rubin. Then</p> <p>7 there's the purchasing department is in there. And me.</p> <p>8 HEARING OFFICER SCHAEFER: <small>Who is Geina Keller?</small></p> <p>9 THE WITNESS: Geina Keller is the talent -- the director</p> <p>10 of talent acquisition.</p> <p>11 HEARING OFFICER SCHAEFER: <small>For MSO?</small></p> <p>12 THE WITNESS: For New York Methodist.</p> <p>13 HEARING OFFICER SCHAEFER: <small>Okay. And Ann Rubin?</small></p> <p>14 THE WITNESS: She's an HR generalist for MSO. I mean, I'm</p> <p>15 sorry, New York Methodist.</p> <p>16 HEARING OFFICER SCHAEFER: <small>Okay. Where is Geina?</small></p> <p>17 talent? No, director --</p> <p>18 THE WITNESS: No, she was the HR -- oh, the first one?</p> <p>19 HEARING OFFICER SCHAEFER: <small>Okay. And Rubin, sorry.</small></p> <p>20 THE WITNESS: Oh, Ann Rubin is an HR generalist.</p> <p>21 HEARING OFFICER SCHAEFER: <small>HR generalist, okay.</small></p> <p>22 THE WITNESS: For New York Methodist.</p> <p>23 BY MR. FELSTINER:</p> <p>24 Q And is that a purchasing department of MSO?</p> <p>25 A No, that's New York Methodist.</p>	<p style="text-align: right;">Page 598</p> <p>1 Q I'm sorry.</p> <p>2 A That's okay.</p> <p>3 Q Were you done?</p> <p>4 A Yeah, I'm done.</p> <p>5 Q Okay. How often do you speak to the office managers over</p> <p>6 the phone?</p> <p>7 A Sometimes daily. Most of the time daily.</p> <p>8 Q Is that true with respect to both Suzanne and Karen?</p> <p>9 A I speak to Suzanne more frequently than I would with</p> <p>10 Karen. Suzanne has a lot more employees.</p> <p>11 Q You testified that you have a discussion with Suzanne</p> <p>12 Dinnerstein before hiring.</p> <p>13 A Yes.</p> <p>14 Q Do you have a discussion with Karen Chan, also, before --</p> <p>15 A Yes.</p> <p>16 Q -- hiring in wound care?</p> <p>17 A Yes.</p> <p>18 Q Who has the final decision?</p> <p>19 A I do.</p> <p>20 Q Do you ever have to clear it with the doctors in the wound</p> <p>21 care office?</p> <p>22 A No.</p> <p>23 Q Anybody else you have to clear it with?</p> <p>24 A No.</p> <p>25 Q Can you take -- do you still have 8(m) up there?</p>

<p style="text-align: right;">Page 599</p> <p>1 HEARING OFFICER SCHAEFER: Yes.</p> <p>2 THE WITNESS: Yes.</p> <p>3 BY MR. FELSTINER:</p> <p>4 Q We're looking at one of the documents in here. It's going</p> <p>5 to take me a second to get mine out. My apologies.</p> <p>6 A Um-hum.</p> <p>7 Q The offer letter, that -- if that's helpful, dated June 6,</p> <p>8 2015.</p> <p>9 A Sure. For who, Ketner?</p> <p>10 Q Abigail Ketner.</p> <p>11 A Okay.</p> <p>12 Q Do you see that document?</p> <p>13 A Yes. Um-hum.</p> <p>14 Q Did you prepare this letter?</p> <p>15 A No, I didn't.</p> <p>16 Q Do you know who did?</p> <p>17 A Geina Keller.</p> <p>18 HEARING OFFICER SCHAEFER: <small>Does anyone prepare these</small></p> <p>19 letters?</p> <p>20 THE WITNESS: Yes.</p> <p>21 HEARING OFFICER SCHAEFER: <small>Is it like a template?</small></p> <p>22 THE WITNESS: Yes.</p> <p>23 HEARING OFFICER SCHAEFER: <small>Has the person brought a</small></p> <p>24 computer system or something?</p> <p>25 THE WITNESS: Through the Position Manager Applicant</p>	<p style="text-align: right;">Page 601</p> <p>1 Q She has access to the template?</p> <p>2 A Yes.</p> <p>3 Q And she sends offer letters to MSO hire -- new hires?</p> <p>4 A No. Well, yes. In this case, yes.</p> <p>5 Q Okay. Has there been any -- since you began, have there</p> <p>6 been any -- has any discipline been issued to any employee at</p> <p>7 the Urology Center or the Wound Care Center?</p> <p>8 A No.</p> <p>9 Q You testified that you are involved in discussing</p> <p>10 discipline with managers; is that correct?</p> <p>11 A I do discuss them, yes.</p> <p>12 Q But no discipline has been issued?</p> <p>13 A Well, we have -- by discipline I'm thinking that you're</p> <p>14 talking about a formal disciplinary written warning type of</p> <p>15 thing.</p> <p>16 Q Have there been any written warnings?</p> <p>17 A Not in those two facilities.</p> <p>18 Q Have there been informal --</p> <p>19 A Yes.</p> <p>20 Q -- discipline?</p> <p>21 A Yes.</p> <p>22 Q What do you -- what would -- how would you characterize</p> <p>23 "informal discipline"?</p> <p>24 A Informal would be discussing an -- not an applicant, an</p> <p>25 employee's behavior, and --</p>
<p style="text-align: right;">Page 600</p> <p>1 Tracking system.</p> <p>2 HEARING OFFICER SCHAEFER: <small>Does that computer</small></p> <p>3 just generates -- like, how do you get the template to</p> <p>4 generate?</p> <p>5 THE WITNESS: <small>You selected template for an "MSO New Hire</small></p> <p>6 Offer Letter" it's called.</p> <p>7 HEARING OFFICER SCHAEFER: Okay.</p> <p>8 THE WITNESS: And then it plugs in the information based</p> <p>9 on the applicant.</p> <p>10 HEARING OFFICER SCHAEFER: Okay.</p> <p>11 BY MR. FELSTINER:</p> <p>12 Q Where do you find that template?</p> <p>13 A On the Position Manager Applicant Tracking software.</p> <p>14 Q Do other people in that second floor office have access to</p> <p>15 the Position Manager software?</p> <p>16 A Yes.</p> <p>17 Q Do you all use it?</p> <p>18 A Yes.</p> <p>19 Q All use the same software?</p> <p>20 A Yes. They have a good tracking --</p> <p>21 Q Ms. Keller, she's a work -- she's a talent acquisition --</p> <p>22 what's her position again?</p> <p>23 A She's director of talent acquisition.</p> <p>24 Q At New York Methodist?</p> <p>25 A At New York Methodist.</p>	<p style="text-align: right;">Page 602</p> <p>1 HEARING OFFICER SCHAEFER: <small>Does anyone do a manual of</small></p> <p>2 something --</p> <p>3 THE WITNESS: Someone is not working there any longer.</p> <p>4 HEARING OFFICER SCHAEFER: Okay.</p> <p>5 THE WITNESS: And there was a --</p> <p>6 HEARING OFFICER SCHAEFER: <small>You can speak about it</small></p> <p>7 generally.</p> <p>8 THE WITNESS: <small>Generally?</small> Okay. There was an employee who</p> <p>9 was disrespectful and not following direction. And we were</p> <p>10 discussing what steps. Should we take a verbal warning?</p> <p>11 Should we take a written warning? You know, we discussed that</p> <p>12 for that employee.</p> <p>13 BY MR. FELSTINER:</p> <p>14 Q Has anybody been terminated since you -- or discharged --</p> <p>15 let me be more specific. Discharged since you started?</p> <p>16 A Those two sites? No.</p> <p>17 HEARING OFFICER SCHAEFER: <small>What did you know there</small></p> <p>18 discussions with? About that -- when you --</p> <p>19 THE WITNESS: That one employee?</p> <p>20 HEARING OFFICER SCHAEFER: Yeah.</p> <p>21 THE WITNESS: Suzanne Wood.</p> <p>22 HEARING OFFICER SCHAEFER: Okay.</p> <p>23 THE WITNESS: Dinnerstein-Wood, yeah.</p> <p>24 HEARING OFFICER SCHAEFER: <small>What was the discussion</small></p> <p>25 involved in the discussion?</p>

<p style="text-align: right;">Page 603</p> <p>1 THE WITNESS: Not with me, no. 2 HEARING OFFICER SCHAEFER: Okay. 3 BY MR. FELSTINER: 4 Q Now, you mentioned salary grids. 5 A Yeah. 6 Q What's a salary grid? 7 A It's a grid that has salaries based on what their job 8 position is. 9 Q Did you -- 10 A Classification. 11 Q -- create it? Did you create it? 12 A No. It was in place by the prior -- my predecessor. 13 Q Who created it, if you know? 14 A I don't know. 15 Q You also mentioned that you -- you mentioned "the market." 16 I don't want to mischaracterize, excuse me. I believe you said 17 you compare to the market." Is that correct? 18 A It would be to other private practices. 19 Q Okay. What comparators do you use? 20 A Oh, I would use -- ooph, what do you I use it for? 21 Actually, I worked with a -- another human resources person on 22 that. 23 Q Who would -- who did you work with? 24 A Lucille Bock. 25 Q Lucille Bock?</p>	<p style="text-align: right;">Page 605</p> <p>1 MR. FRANK: Objection. Relevance. 2 HEARING OFFICER SCHAEFER: Well -- 3 MR. FRANK: How does that go to a unit question and what 4 the salary adjustments were? 5 MR. FELSTINER: Withdrawn. I don't need to know what it 6 was. 7 HEARING OFFICER SCHAEFER: <small>-----</small> 8 decision? All right, sustained. 9 The -- who made the decisions and those kinds of things, 10 yeah. 11 MR. FELSTINER: Okay. So -- 12 HEARING OFFICER SCHAEFER: <small>Though you --</small> 13 BY MR. FELSTINER: 14 Q Sorry, I should have been more specific when I said, "Can 15 you describe it?" You don't -- I'm not interested in the 16 amount, I just -- I'm just interested in the process. 17 So a salary -- a salary increase took effect January 1, 18 2016; am I correct? 19 A Yes. 20 Q Okay. For all employees in urology? 21 A All -- yes. 22 Q And all employees in wound care? 23 A Yes. 24 Q Were you involved in discussions about the salary 25 increase?</p>
<p style="text-align: right;">Page 604</p> <p>1 A Yes. 2 Q How do you spell that? 3 A B-O-C-K. 4 Q B-O-C-K. Does she work on 9th Street, as well? 5 A Yes. 6 Q Where does she work? 7 A The third floor of 435. 8 Q Does she work for New York Methodist Hospital? 9 A Yes. 10 Q What's her position? 11 A She's an HR director. 12 Q Was this with respect to wound care or urology when you 13 were comparing salaries? 14 A We were comparing MSO of Kings County. 15 Q Have there been any changes to employee salaries since you 16 began working? 17 A Yes. 18 Q Have there been changes in the Wound Care Center? 19 A Yes. 20 Q Have there been changes in urology? 21 A Yes. 22 Q When was the most recent salary change? 23 A Effective January 1, 2015 -- '16. 24 Q What was it? Can you describe it? 25 A It was a 3 percent --</p>	<p style="text-align: right;">Page 606</p> <p>1 A Well, it is -- yes. Yes. 2 Q Who else was involved in those discussions? 3 A Dennis Buchanan. 4 Q Who is Dennis Buchanan? 5 A He's the vice president of human resources. 6 Q For Methodist Hospital? 7 A Yeah. 8 Q Anybody else involved in that discussion? 9 A Jennifer Donovan. 10 Q What is Ms. Donovan's title? 11 A Vice -- vice president -- 12 Q Also New York Methodist? 13 A Yes. Um-hum. 14 HEARING OFFICER SCHAEFER: <small>-----</small> 15 resources? 16 THE WITNESS: No, of New York Methodist. 17 HEARING OFFICER SCHAEFER: <small>Oh, that's -- oh, okay</small> 18 THE WITNESS: She's -- 19 HEARING OFFICER SCHAEFER: <small>Got it. Go ahead.</small> 20 BY MR. FELSTINER: 21 Q Who determined how much the salary increase would be? 22 A It is a 3 percent from practice that has been going on at 23 MSO for several years, prior to me coming. 24 Q What's -- what's the practice? 25 A That employees have gotten -- each year that MSO has</p>

<p style="text-align: right;">Page 607</p> <p>1 begun, a 3 percent increase. Or an increase. A yearly 2 increase. 3 Q Who notified employees of the increase in January 2016? 4 A I did. 5 Q How did you do that? 6 A I spoke to their office manager about the increase. 7 Q You testified that Cerner provides training to MSO 8 employees at urology? 9 A They have, yes. 10 Q Also at wound care? 11 A They may have. 12 Q Does MSO pay Cerner to provide this training? 13 A I'm unaware of that. 14 Q Have you ever negotiated an agreement with Cerner? 15 A I don't, no. I'm not involved in that. 16 Q Are you involved in -- have you negotiated with any of the 17 soft -- software companies that you testified to? 18 A No. 19 Q Who does that? 20 A I'm not aware of that. It had -- was prior to my -- it 21 was in place prior to my being hired at MSO. 22 Q Does MSO receive bills from these software companies? 23 A I am not involved in the financial part of that in MSO. 24 Q Who -- who handles that? Financial operations. 25 A That could be Dennis Buchanan.</p>	<p style="text-align: right;">Page 609</p> <p>1 correct? 2 A Yes, she does. 3 Q You testified that Brooklyn Urology has its own website? 4 A Yes. 5 Q Who maintains the website, if you know? 6 A The physicians at New York -- Brooklyn Urology, I'm sorry. 7 Q Does the Wound Care Center have its own website? 8 A No. 9 MR. FELSTINER: Give me one moment, please. 10 HEARING OFFICER SCHAEFER: <small>Um-hum.</small> 11 When you say the physicians maintain the website, the 12 physicians have like a staff of their own? Or is one of the 13 physicians just tech savvy? 14 THE WITNESS: One of the physicians is actually doing it. 15 He's tech savvy, yeah. 16 HEARING OFFICER SCHAEFER: Okay. 17 BY MR. FELSTINER: 18 Q All right, you testified as to Linden Boulevard, 19 Greenpoint, and Dyker Heights as locations of Brooklyn Urology. 20 A Um-hum. 21 Q Which doctors are which locations? 22 A Oh, Dr. Grunberger is at Greenpoint. 23 Q How often? 24 A Twice a week, possibly. 25 Q I'm sorry, Linden Boulevard -- any other doctors at</p>
<p style="text-align: right;">Page 608</p> <p>1 Q Does Dennis Buchanan hold a position within MSO? 2 A He's the MSO officer. 3 Q Which officer? 4 A Which created MSO. 5 Q Do you know what office he holds? 6 A Chair. I'm not sure. 7 HEARING OFFICER SCHAEFER: <small>If you don't know --</small> 8 THE WITNESS: I don't know. 9 HEARING OFFICER SCHAEFER: <small>-- don't guess.</small> 10 THE WITNESS: I'm not sure. 11 BY MR. FELSTINER: 12 Q If you know. Okay. 13 A I'm not sure. 14 Q Do you issue identification badges to MSO employees? 15 A Physically I don't. 16 Q Who does that? 17 A The front desk receptionist. 18 Q Who -- who's at the front desk? 19 A Melissa. 20 Q Melissa? 21 A Yeah, Wishart. 22 Q How do you spell her last name? 23 A W-I-S-H-A-R-T. 24 Q Thank you. 25 She works for New York Methodist human resources, too;</p>	<p style="text-align: right;">Page 610</p> <p>1 Greenpoint? 2 A Dr. Zoltan can go to Greenpoint. 3 Q How about Linden Boulevard? 4 A Dr. Zoltan. 5 Q Any others at Linden Boulevard? 6 A No. And Dr. Kolon. 7 Q Dr. Kolon at Liden -- 8 A At -- no, at the other. 9 Q Oh, Doctor -- 10 A Dyker Heights. 11 Q -- Kolon goes to Dyker Heights? 12 How often is Dr. Zoltan at Linden Boulevard? 13 HEARING OFFICER SCHAEFER: <small>If you know.</small> 14 BY MR. FELSTINER: 15 Q If you know. 16 A Possibly once a week. 17 Q And Dr. Kolon at Dyker Heights? 18 HEARING OFFICER SCHAEFER: <small>Again, if you know.</small> 19 BY MR. FELSTINER: 20 Q Just if you know. 21 A Once a week. Once or twice. Once or twice. 22 Q You testified that Consolidated Risk Management provides 23 emergency training. 24 A Um-hum. 25 Q Does MSO have a contract with Consolidated Risk</p>

<p style="text-align: right;">Page 611</p> <p>1 Management?</p> <p>2 A I am not aware of that.</p> <p>3 Q Is that also -- type of matter be handled by Mr.</p> <p>4 Buchannan?</p> <p>5 A Yes. Possibly. Yes.</p> <p>6 Q Is the same true for MSO's -- oh, you -- sorry. Strike</p> <p>7 that.</p> <p>8 Do you prepare paychecks?</p> <p>9 A Yes. I am --</p> <p>10 Q Or let me be more specific. I'm sorry. Strike that.</p> <p>11 Do you prepare paychecks for employees at the urology</p> <p>12 facility at 1 Prospect Park West?</p> <p>13 A Could you rephrase that?</p> <p>14 HEARING OFFICER SCHAEFER: Yeah.</p> <p>15 THE WITNESS: I -- yeah.</p> <p>16 HEARING OFFICER SCHAEFER: _____</p> <p>17 that does --</p> <p>18 THE WITNESS: We have a payroll company, ADP.</p> <p>19 HEARING OFFICER SCHAEFER: Okay.</p> <p>20 THE WITNESS: General accounting, though, prepares,</p> <p>21 processes the paychecks. I input in the Kronos system for</p> <p>22 that.</p> <p>23 MR. FELSTINER: So -- okay. Can I follow-up?</p> <p>24 HEARING OFFICER SCHAEFER: <small>Ask it that way.</small></p> <p>25 BY MR. FELSTINER:</p>	<p style="text-align: right;">Page 613</p> <p>1 Center and the Wound Care Center.</p> <p>2 Q If one of these -- well, rephrase that.</p> <p>3 Have you ever secured temporary employees for the urology</p> <p>4 facility at 1 Prospect Park West?</p> <p>5 A Yes.</p> <p>6 Q Have you ever secured temporary employees for the wound</p> <p>7 care facility?</p> <p>8 A Yes.</p> <p>9 Q Where do you go to get a temporary employee?</p> <p>10 A I go to temporary agencies. Vanguard are the ones we use.</p> <p>11 Q And how are they paid?</p> <p>12 A Winston. By check with us for MSO. MSO pays for the --</p> <p>13 Q Do you fill out a check request?</p> <p>14 A Yes.</p> <p>15 Q Who do you submit it to?</p> <p>16 A Dennis Buchanan.</p> <p>17 Q Does MSO have a contract with respect to the X-ray suite</p> <p>18 or the X-ray room at 1 Prospect Park West?</p> <p>19 A No.</p> <p>20 Q Is there a lease?</p> <p>21 A That MSO has? No.</p> <p>22 Q You were hired at the end of last -- middle of last year?</p> <p>23 A Yes.</p> <p>24 Q To whom did you apply?</p> <p>25 A To --</p>
<p style="text-align: right;">Page 612</p> <p>1 Q So you -- so what do you input into the Kronos system?</p> <p>2 A Any time off. Any -- any missed punches or swipes.</p> <p>3 Q Are you reviewing the time that's punched in and out by</p> <p>4 employees at both of these facilities?</p> <p>5 A Yes.</p> <p>6 Q And then you enter additional -- sorry.</p> <p>7 A The managers do, actually. I oversee that. Yeah, the</p> <p>8 managers do do that.</p> <p>9 Q And you also enter information in?</p> <p>10 A I will if they haven't done it, and there has been an</p> <p>11 error and I caught it.</p> <p>12 Q Where does it go after that?</p> <p>13 A It goes to general accounting.</p> <p>14 Q Is that an MSO department?</p> <p>15 A No, it's New York Methodist.</p> <p>16 Q And what happens at -- if you know, what happens at</p> <p>17 general accounting to that? Do they -- do they prepare the</p> <p>18 paychecks?</p> <p>19 A They -- yeah. They combine two files, Kronos with ADP,</p> <p>20 and then submit the ADP file to ADP, which then produces the</p> <p>21 paychecks.</p> <p>22 Q They print -- okay.</p> <p>23 A Yeah.</p> <p>24 Q And how do the paychecks end up back with the employees?</p> <p>25 A They are mailed back to the employees in the Urology</p>	<p style="text-align: right;">Page 614</p> <p>1 MR. FRANK: Objection on grounds of relevance.</p> <p>2 HEARING OFFICER SCHAEFER: <small>It goes -- unrelated.</small></p> <p>3 THE WITNESS: The person that I spoke with or the</p> <p>4 application?</p> <p>5 BY MR. FELSTINER:</p> <p>6 Q Where did you -- how did -- where did you submit the</p> <p>7 application?</p> <p>8 A I --</p> <p>9 Q Well, strike that.</p> <p>10 Did you submit an application for this --</p> <p>11 A Yes, I did.</p> <p>12 Q -- position?</p> <p>13 A Yes.</p> <p>14 Q To whom did you submit it?</p> <p>15 A To MSO of Kings County.</p> <p>16 Q Was it attention any particular person?</p> <p>17 A It was -- no, it was on a website.</p> <p>18 HEARING OFFICER SCHAEFER: <small>The last statement is for</small></p> <p>19 application and more who hired her. But --</p> <p>20 MR. FELSTINER: Fair enough.</p> <p>21 BY MR. FELSTINER:</p> <p>22 Q Who hired you?</p> <p>23 MR. FELSTINER: Well, can -- I'm sorry, Madam Hearing</p> <p>24 Officer.</p> <p>25 HEARING OFFICER SCHAEFER: Yes.</p>

Page 615	Page 617
<p>1 BY MR. FELSTINER: 2 Q May I ask if you were interviewed? 3 A Yeah, I was interviewed. 4 HEARING OFFICER SCHAEFER: Yeah. 5 BY MR. FRANK: 6 Q Who interviewed you? 7 A I was interviewed by Danielle Hinkston, she's an HR 8 generalist. I was interviewed by Geina Keller. I was 9 interviewed by Lucille Bock. 10 Q You've testified as to Geina and Lucille. Who's Danielle, 11 HR generalist? 12 A Danielle was an -- she's the manager of talent 13 acquisition. 14 Q Also in New York Methodist? 15 A Yes. 16 Q Did you interview with anybody else? 17 A No. 18 Q Did you receive an offer letter? 19 A Yes, I did. 20 Q Who was that from? 21 A It was from Danielle Hinkston. 22 Q Do you -- does MSO have any officers, other than Dennis 23 Buchanan? 24 A There is another officer, and I'm not aware of his name. 25 Q You report --</p>	<p>1 A It's -- no. 2 Q No? 3 A No. 4 Q Who is? 5 A New York Methodist. 6 Q So what's the dental plan? 7 A Guardian Dental. 8 Q Is that also New York Methodist? 9 A Yes. 10 Q Employees at the urology -- excuse me. Are employees at 11 the two 1 Prospect Park West facilities eligible for tuition 12 reimbursement benefits? 13 A Yes. 14 Q Do you process their reimbursement forms? 15 A It goes to -- no. 16 Q Who does that go to? 17 A It goes to the benefits department. 18 Q What benefit -- the benefits department of the hospital? 19 A Yes. 20 Q Does MSO have Workers' Compensation Insurance? 21 A Yes. 22 Q Is that a separate plan? Or are they covered by the 23 hospital? 24 A Covered by New York Methodist. 25 Q And has at any -- I won't give you a hypothetical.</p>
Page 616	Page 618
<p>1 A It may be Fagan, I'm not sure. I'm not aware. 2 Q You report primarily to Mr. Buchanan? 3 A Yes. 4 Q You testified as to the four different health benefit 5 options. 6 A Yes. 7 Q That's the high deduct -- actually, I don't need you to 8 confirm it. I got it in my notes. 9 Is MSO the policyholder for those health benefit plans? 10 A Can you ask it another way? 11 MR. FRANK: If you know. If you don't know, you don't 12 have to guess. 13 THE WITNESS: I don't think so. I'm not aware. I'm not 14 sure. 15 BY MR. FELSTINER: 16 Q I'll try to ask it another way. Does MSO go into the 17 market and try to get plans for people? 18 A No. 19 Q Who does that? 20 A New York Methodist. 21 Q How about vision? What's the vision plan? 22 A Vision plan is Davis Vision Plan. 23 Q Is MSO the policyholder -- 24 A No. 25 Q -- for that plan, if you know?</p>	<p>1 Have any employees filed for disability since you've been 2 there? 3 HEARING OFFICER SCHAEFER: <small>Hearing officer...</small> 4 can just say yes or no. 5 MR. FELSTINER: Yes, I'm so sorry. 6 HEARING OFFICER SCHAEFER: <small>Yes or no.</small> 7 THE WITNESS: Yes. 8 HEARING OFFICER SCHAEFER: <small>He, it is the question.</small> 9 MR. FELSTINER: It's not perfectly clear. 10 THE WITNESS: Yes. No -- yes. 11 BY MR. FELSTINER: 12 Q Speaking generally, employees have filed for disability? 13 A Yes. 14 Q Okay. Do they file -- did they file disability claims 15 with you? 16 A They file them with the benefits department. 17 Q That's the Methodist benefits department? 18 A Yes. 19 Q Okay. You testified that MSO provides administrative 20 services to physician practices. 21 A Um-hum. 22 Q Does MSO have a contract with any corporation associated 23 with these facilities? 24 A I'm -- I'm not sure. 25 Q Are those services that -- I'll try again. Are those</p>

<p style="text-align: right;">Page 619</p> <p>1 services that MSO provided pursuant to a contract?</p> <p>2 A I'm not involved in that part of the business.</p> <p>3 Q Does Methodist reimburse -- if you know, does Methodist</p> <p>4 reimburse MSO for expenses?</p> <p>5 A I'm not aware of it.</p> <p>6 Q Who handles the billing to patients for the urology</p> <p>7 facility?</p> <p>8 A There's a third party, a firm in Long Island that does the</p> <p>9 billing for urology.</p> <p>10 Q How about for wound care?</p> <p>11 A They use -- I'm not 100 percent sure.</p> <p>12 HEARING OFFICER SCHAEFER: <small>He is not aware of that.</small></p> <p>13 party firm?</p> <p>14 THE WITNESS: I don't know off the top of my head.</p> <p>15 HEARING OFFICER SCHAEFER: Okay.</p> <p>16 THE WITNESS: It's a Long Island firm.</p> <p>17 BY MR. FELSTINER:</p> <p>18 Q Does MSO have a bank account?</p> <p>19 A I am not aware of that.</p> <p>20 Q Okay. Are you authorized to make expenditures on behalf</p> <p>21 of MSO?</p> <p>22 A Yes.</p> <p>23 Q When you make an expenditure, are you drawing on a MSO</p> <p>24 bank account?</p> <p>25 A Yes.</p>	<p style="text-align: right;">Page 621</p> <p>1 questioning. This is an R-case and whether or not there's a</p> <p>2 question concerning representation. And none of these</p> <p>3 questions go to those issues.</p> <p>4 HEARING OFFICER SCHAEFER: <small>He is not aware of that.</small></p> <p>5 the R-case goes to the question of who of the employer of the</p> <p>6 employees is, in the absence of. And I think some of these</p> <p>7 questions do. I'm going to limit them to the extent that I</p> <p>8 think they need to be limited. But I think expenditures for</p> <p>9 MSO and how they're made is -- is relevant.</p> <p>10 MR. FRANK: Let me be clear on this record, we don't think</p> <p>11 so and we object to doing this. Questions concerning</p> <p>12 representation in QCR, the Board has defined what's relevant.</p> <p>13 And I don't think any of these questions are relevant to</p> <p>14 whether or not there's a QCR at MSO for these employees.</p> <p>15 Whether it's the wound care practice or the urology practice.</p> <p>16 This is an attempt to discover information about management.</p> <p>17 That is totally inappropriate in a representation case.</p> <p>18 THE WITNESS: As to who the --</p> <p>19 HEARING OFFICER SCHAEFER: <small>He is not aware of that.</small></p> <p>20 continue. Though, I would ask when you're talking about</p> <p>21 generally expenditures, try to ask specifics instead of broad,</p> <p>22 so that we can kind of get to it.</p> <p>23 BY MR. FELSTINER:</p> <p>24 Q Their -- does MSO own the medical equipment in the urology</p> <p>25 facility?</p>
<p style="text-align: right;">Page 620</p> <p>1 Q If you know.</p> <p>2 A Yes.</p> <p>3 HEARING OFFICER SCHAEFER: <small>He is not aware of that.</small></p> <p>4 THE WITNESS: No. I get --</p> <p>5 HEARING OFFICER SCHAEFER: No?</p> <p>6 THE WITNESS: No. I don't have a credit card. No.</p> <p>7 BY MR. FELSTINER:</p> <p>8 Q Do you ever --</p> <p>9 HEARING OFFICER SCHAEFER: <small>He is not aware of that.</small></p> <p>10 THE WITNESS: No, no. I don't have --</p> <p>11 MR. FELSTINER: Yeah, let's talk about your personal</p> <p>12 credit history.</p> <p>13 THE WITNESS: -- an MSO credit card, no.</p> <p>14 BY MR. FELSTINER:</p> <p>15 Q Okay, so do you ever have to seek approval for MSO</p> <p>16 expenditures? Actually, strike that.</p> <p>17 What kind of expenditures have you made on behalf of MSO?</p> <p>18 A Let's think. There a short time. Expenditures. What</p> <p>19 have I purchased? Office -- my office -- my office, you know,</p> <p>20 supplies and computer screen and a chair, you know, things like</p> <p>21 that. Travel expenses.</p> <p>22 Q For your travel expenses, do you approve your own travel</p> <p>23 expenses?</p> <p>24 A No, I submit --</p> <p>25 MR. FRANK: I'm going to object to this line of</p>	<p style="text-align: right;">Page 622</p> <p>1 MR. FRANK: Same objection.</p> <p>2 HEARING OFFICER SCHAEFER: <small>He is not aware of that.</small></p> <p>3 BY MR. FELSTINER:</p> <p>4 Q If you know.</p> <p>5 A I do not know.</p> <p>6 MR. FRANK: I don't -- how does the who owns the equipment</p> <p>7 relevant to anything related to a question concerning</p> <p>8 representation?</p> <p>9 HEARING OFFICER SCHAEFER: <small>He is not aware of that.</small></p> <p>10 the employer of the employees is.</p> <p>11 Does MSO -- so I'm overruling your practice.</p> <p>12 MR. FRANK: It's a physician practice. What does that</p> <p>13 have to do -- who owns the equipment at a physician practice;</p> <p>14 what does that have to do with who controls labor relations of</p> <p>15 the employees?</p> <p>16 HEARING OFFICER SCHAEFER: <small>He is not aware of that.</small></p> <p>17 answer the hypothetically questions you're answering (sic),</p> <p>18 except to say that there is a question about who the single --</p> <p>19 who -- there's an allegation about who the employer of the</p> <p>20 employees is, and who owns the equipment used by the employees</p> <p>21 is absolutely relevant to answering that question.</p> <p>22 MR. FRANK: For the record, there's no such allegation in</p> <p>23 the petition. This is something that the Union and the hearing</p> <p>24 officer have manufactured.</p> <p>25 HEARING OFFICER SCHAEFER: <small>All right.</small></p>

<p style="text-align: right;">Page 623</p> <p>1 MR. FRANK: I did not see anything about that issue in the 2 petition. 3 HEARING OFFICER SCHAEFER: Okay. 4 MS. WILCOX: Well, I take exception to any suggestion that 5 there was -- that the Petitioner and the hearing officer 6 colluded with respect to these allegations. 7 The petition was filed by -- was filed, and it 8 specifically set for the two entities that are the subject of 9 this proceeding. And Petitioner determined what their position 10 was, and has clearly set forth that in their position on the 11 record. 12 MR. FRANK: I think that petitions speak for themselves. 13 There's no mention of joint employer or single employer in the 14 petitions. 15 HEARING OFFICER SCHAEFER: <small>Okay, Yes -- Thank You</small> 16 the objection. And I just want to make sure that we got answer 17 here. 18 MR. FRANK: Do I have a standing objection to this line of 19 questioning? 20 HEARING OFFICER SCHAEFER: <small>Your objection is noted</small> 21 MR. FRANK: To the whole line of questions? 22 HEARING OFFICER SCHAEFER: <small>Your objection is noted</small> 23 THE WITNESS: Repeat the question, please. 24 HEARING OFFICER SCHAEFER: <small>Okay, Yes -- Thank You</small> 25 that's used at the wound care or urology, if you know?</p>	<p style="text-align: right;">Page 625</p> <p>1 The question is who -- do the office -- if a -- if 2 something needs to be purchased at the facility, whether it's 3 supplies that the employees use, do they -- do the office 4 managers go through you to get those supplies? 5 THE WITNESS: No. 6 HEARING OFFICER SCHAEFER: <small>Okay, Yes -- Thank You</small> 7 have their own -- do they use the same system that you use to 8 purchase goods or services, as necessary? 9 THE WITNESS: No. I don't -- no. 10 HEARING OFFICER SCHAEFER: Okay. 11 MR. FELSTINER: Can -- I'm sorry. Can we go off the 12 record for a minute? 13 HEARING OFFICER SCHAEFER: <small>Yeah, Off the record</small> 14 (Whereupon, a brief recess was taken.) 15 HEARING OFFICER SCHAEFER: <small>Back on the record</small> 16 CROSS-EXAMINATION (continued) 17 BY MR. FELSTINER: 18 Q All right, Ms. Kennedy, before I show you some documents, 19 you mentioned that somebody named Fagan is also on the MSO 20 council and MSO officer? 21 A Um-hum. 22 Q Is that Michael Fagan, do you know? 23 A Yes. 24 Q Who was performing the -- if you know, who was the HR 25 person for MSO before you?</p>
<p style="text-align: right;">Page 624</p> <p>1 THE WITNESS: I do not know. 2 HEARING OFFICER SCHAEFER: <small>Okay, Yes -- Thank You</small> 3 CROSS-EXAMINATION (continued) 4 BY MR. FELSTINER: 5 Q Who services the equipment? 6 A I do not know. 7 Q As a for-profit-corporation, does MSO have to file tax 8 returns? 9 A I do not know that. 10 Q And you're not involved in preparing the tax returns? 11 A No. 12 Q How about other financial reporting? 13 A No. 14 Q I can be more specific, bit it sounds like -- all right. 15 If one of the -- or have the office managers ever 16 approached you to approve an expenditure at one of their 17 facilities? 18 MR. FRANK: Objection, unless it's related to human 19 resource issues. 20 HEARING OFFICER SCHAEFER: <small>It would --</small> 21 MR. FELSTINER: Well, I'm sorry. The Witness testified 22 that she manages the centers, in addition to HR matters. So 23 I'm asking about that. 24 HEARING OFFICER SCHAEFER: <small>Okay, Yes -- Thank You</small> 25 objection. I --</p>	<p style="text-align: right;">Page 626</p> <p>1 A Erica -- 2 MR. FRANK: Objection. No foundation. 3 HEARING OFFICER SCHAEFER: <small>Well, she testified --</small> 4 BY MR. FELSTINER: 5 Q Or who did you take over from? 6 HEARING OFFICER SCHAEFER: <small>Okay, Yes -- Thank You</small> 7 referenced her predecessor. 8 MR. FRANK: Okay. 9 HEARING OFFICER SCHAEFER: <small>Thank You -- Standby</small> 10 Who's your predecessor? 11 THE WITNESS: Erica Ostrowsky. 12 BY MR. FELSTINER: 13 Q Was she still working there when you began? 14 A No. 15 Q If you know, was there a gap between her and -- when she 16 ended and you started? 17 A Yes. 18 Q About how long? 19 MR. FRANK: Objection. 20 HEARING OFFICER SCHAEFER: <small>Thank You -- Standby</small> 21 MR. FELSTINER: Okay, fair enough. 22 BY MR. FELSTINER: 23 Q Who -- did anybody perform the duties -- 24 A Yes. 25 MR. FRANK: Objection, how can the Witness testify to what</p>

Page 627	Page 629
<p>1 was done before she was there?</p> <p>2 HEARING OFFICER SCHAEFER: <small>... ..</small></p> <p>3 If someone told her. So.</p> <p>4 MR. FELSTINER: If she doesn't know then --</p> <p>5 HEARING OFFICER SCHAEFER: <small>... ..</small></p> <p>6 the job duties before you started?</p> <p>7 THE WITNESS: I thought Geina Keller was.</p> <p>8 HEARING OFFICER SCHAEFER: Okay.</p> <p>9 MR. FELSTINER: <small>Gwynne, are you fine with me handing you</small></p> <p>10 stuff?</p> <p>11 MS. WILCOX: Yeah.</p> <p>12 MR. FELSTINER: <small>One-, two-, three-, four, okay, here you</small></p> <p>13 go.</p> <p>14 (Union's U-32 marked.)</p> <p>15 BY MR. FELSTINER:</p> <p>16 Q I'm going to show you a document, which would be, I want</p> <p>17 to say Union 32.</p> <p>18 MR. FELSTINER: I'm sorry, that may not be right; we're on</p> <p>19 the urology record, right?</p> <p>20 HEARING OFFICER SCHAEFER: It's --</p> <p>21 MR. FELSTINER: So Union 3?</p> <p>22 HEARING OFFICER SCHAEFER: <small>It is Union 32.</small></p> <p>23 MR. FELSTINER: It is Union 32?</p> <p>24 MS. WILCOX: Union 32.</p> <p>25 MR. FELSTINER: Okay. All right. Thank you.</p>	<p>1 A Reportsmith, nothing's entered into.</p> <p>2 Q Well, how does it get in -- how does the data get in?</p> <p>3 A It's goes through ADP.</p> <p>4 Q Okay. On the bottom you see "Entered by"?</p> <p>5 A Yes.</p> <p>6 Q Is any data entered in Reportsmith by you?</p> <p>7 A Not on this form, no.</p> <p>8 Q Okay. You also see "HR Approval"?</p> <p>9 A Yes.</p> <p>10 Q So do you have to print this form for any purpose?</p> <p>11 A Yes.</p> <p>12 Q What purpose?</p> <p>13 A For signatures.</p> <p>14 Q When would you print this form out? You said for</p> <p>15 signatures, but I don't know what --</p> <p>16 A well, after --</p> <p>17 Q -- can you explain?</p> <p>18 A -- a new hire --</p> <p>19 Q Okay.</p> <p>20 A -- you put -- you want to generate their payroll, so you</p> <p>21 would print this form and get it approved.</p> <p>22 Q So it's after --</p> <p>23 A Somebody's payroll.</p> <p>24 Q -- after a new person has been hired --</p> <p>25 A Yeah.</p>
Page 628	Page 630
<p>1 BY MR. FELSTINER:</p> <p>2 Q Do you recognize this document?</p> <p>3 A Yes.</p> <p>4 Q What is it?</p> <p>5 A It's a MSO new hire authorization.</p> <p>6 Q What is a new hire authorization?</p> <p>7 A It's a document generated from the Reportsmith that</p> <p>8 contains the information that the employee -- about the</p> <p>9 employee that --</p> <p>10 Q Did you say "Reportsmith"?</p> <p>11 A Yeah.</p> <p>12 Q I didn't -- is that a software program?</p> <p>13 A Yeah.</p> <p>14 Q Do you use that program?</p> <p>15 A Yeah.</p> <p>16 Q Okay. Have you printed out reports like this before?</p> <p>17 A Yes.</p> <p>18 Q Okay. Who enters the data into Reportsmith?</p> <p>19 MR. FRANK: Objection to the form because this form</p> <p>20 predates this witness' presence at MSO in 2013.</p> <p>21 HEARING OFFICER SCHAEFER: <small>... ..</small></p> <p>22 general than that.</p> <p>23 BY MR. FELSTINER:</p> <p>24 Q I'm not speaking about this specific -- this specific</p> <p>25 document. Just who enters the data into Reportsmith.</p>	<p>1 Q -- you print something out; correct?</p> <p>2 A Yes.</p> <p>3 Q And then it has to be -- and that the information that's</p> <p>4 on here has to be approved?</p> <p>5 A Has to be signed, yes.</p> <p>6 Q Has to be signed?</p> <p>7 A Um-hum.</p> <p>8 Q Who signs them?</p> <p>9 A Um --</p> <p>10 Q I'm not asking about this one, just generally speaking.</p> <p>11 When you prepare them who signs them?</p> <p>12 A I do.</p> <p>13 Q You do? Because they -- does anybody else sign under --</p> <p>14 A Yes.</p> <p>15 Q -- "HR Approval?</p> <p>16 Who would sign that now?</p> <p>17 A Lucille Bock.</p> <p>18 Q Do you recognize the signature here under "HR Approval"?</p> <p>19 A Yes.</p> <p>20 Q Who is that?</p> <p>21 A That's Dennis Buchanan.</p> <p>22 Q Do you recognize the signature on "Entered by"? In the</p> <p>23 "Entered by" line?</p> <p>24 HEARING OFFICER SCHAEFER: <small>Don't guess.</small></p> <p>25 THE WITNESS: No.</p>

Page 631	Page 633
<p>1 MR. FELSTINER: No.</p> <p>2 HEARING OFFICER SCHAEFER: <small>Does your client need this</small></p> <p>3 signature before?</p> <p>4 MR. FELSTINER: Fair enough.</p> <p>5 HEARING OFFICER SCHAEFER: <small>Is the answer "no"?</small></p> <p>6 THE WITNESS: Erica. Looks like Erica's.</p> <p>7 HEARING OFFICER SCHAEFER: Okay.</p> <p>8 THE WITNESS: From paper's that I've looked at, yeah.</p> <p>9 HEARING OFFICER SCHAEFER: Okay.</p> <p>10 THE WITNESS: Erica Ostrowsky.</p> <p>11 MR. FELSTINER: <small>Union offers this document as Union 32.</small></p> <p>12 HEARING OFFICER SCHAEFER: <small>Any objection?</small></p> <p>13 MR. FRANK: No objection.</p> <p>14 HEARING OFFICER SCHAEFER: <small>Does Union 32 received?</small></p> <p>15 (Union's U-32 received.)</p> <p>16 BY MR. FELSTINER:</p> <p>17 Q I'm going to show you another document -- oh.</p> <p>18 HEARING OFFICER SCHAEFER: <small>Does your client need this?</small></p> <p>19 mark it. Do it that way. This is Union 33.</p> <p>20 (Union's U-33 marked.)</p> <p>21 BY MR. FELSTINER:</p> <p>22 Q Do you recognize this document, Ms. Kennedy?</p> <p>23 MS. WILCOX: She doesn't have it yet.</p> <p>24 THE WITNESS: I don't see it.</p> <p>25 MR. FELSTINER: Oh, that would be tough to answer then,</p>	<p>1 recognize this signature, but --</p> <p>2 A Somebody -- a practitioner at Employee Health --</p> <p>3 Q Is that --</p> <p>4 A -- must --</p> <p>5 Q -- people are sent for the physicals?</p> <p>6 A Yes.</p> <p>7 Q And where is Employee Health?</p> <p>8 A Employee Health is the Wesley Building. 501 Wesley.</p> <p>9 Q That's on 6th Street?</p> <p>10 A 6th Street.</p> <p>11 MR. FELSTINER: <small>What is it 32? 33? The Union offers this</small></p> <p>12 as Union 33.</p> <p>13 HEARING OFFICER SCHAEFER: <small>Any objection?</small></p> <p>14 MR. FRANK: Clarification.</p> <p>15 VOIR DIRE EXAMINATION</p> <p>16 BY MR. FRANK:</p> <p>17 Q "Practitioner" is a physician? This is -- Practitioner's</p> <p>18 Signature --</p> <p>19 A No, it's not --</p> <p>20 Q -- that's the doctor?</p> <p>21 A -- a physician. Nurse Practitioner.</p> <p>22 Q That could be a nurse?</p> <p>23 A Yeah.</p> <p>24 MR. FRANK: No objection.</p> <p>25 HEARING OFFICER SCHAEFER: <small>Does Union 33 received?</small></p>
Page 632	Page 634
<p>1 wouldn't it?</p> <p>2 THE WITNESS: Yes.</p> <p>3 BY MR. FELSTINER:</p> <p>4 Q Okay, what is it?</p> <p>5 A It is the pre-employment physical registration form</p> <p>6 clearance.</p> <p>7 Q Now, it's dated 2014, I guess I want to get it out of the</p> <p>8 way; you didn't prepare this form?</p> <p>9 A No.</p> <p>10 Q Okay. So I'm not asking about the contents of it, just</p> <p>11 about the form generally speaking.</p> <p>12 A Okay.</p> <p>13 Q Have you prepared forms like this?</p> <p>14 A Yes.</p> <p>15 Q For what purpose?</p> <p>16 A For new hires to -- to send to Employee Health for</p> <p>17 clearance to begin working.</p> <p>18 Q Does the form come from some kind of software system or</p> <p>19 template?</p> <p>20 A Yes. This comes from the Position Manager software.</p> <p>21 Q And down at the bottom you see the signature?</p> <p>22 A Yes.</p> <p>23 Q Signature line, "Practitioner Signature."</p> <p>24 A Yes.</p> <p>25 Q Who normally signs these forms? I'm not asking if you</p>	<p>1 evidence.</p> <p>2 (Union's U-33 received.)</p> <p>3 CONTINUED CROSS-EXAMINATION</p> <p>4 (Union's U-34 marked.)</p> <p>5 BY MR. FELSTINER:</p> <p>6 Q Show you another document. Have you got this one? Okay,</p> <p>7 great. Do you recognize this document?</p> <p>8 A Yes, I do.</p> <p>9 Q And at the -- this is the same new hire authorization --</p> <p>10 A Yes.</p> <p>11 Q -- form that we discussed before, right?</p> <p>12 A Um-hum. Yes.</p> <p>13 Q Okay. Is that your signature on the "Entered by" line?</p> <p>14 A Yes, it is.</p> <p>15 Q Who signs below? Who signed below here, do you recognize</p> <p>16 it?</p> <p>17 A Geina Keller for Lucille Bock.</p> <p>18 Q Did you say Geina Keller for Lucille Bock?</p> <p>19 A Um-hum.</p> <p>20 Q Okay. Did you give this copy physically to Ms. Keller?</p> <p>21 A Yes.</p> <p>22 MR. FELSTINER: <small>The Union offers this as Union 34.</small></p> <p>23 HEARING OFFICER SCHAEFER: <small>Any objection?</small></p> <p>24 MR. FRANK: No objection.</p> <p>25 HEARING OFFICER SCHAEFER: <small>Does Union 34 received?</small></p>

<p style="text-align: right;">Page 635</p> <p>1 in evidence. 2 (Union's U-34 received.) 3 BY MR. FELSTINER: 4 Q Take a look at MSO-20(a), which is the personnel file for 5 Jasmine Tower. 6 A Yeah. Oh, yeah, (a), (b). Got it. Yes. 7 Q Do you see the new hire authorization form in that packet? 8 A Yes. 9 Q Do you recognize the signature on the "HR Approval"? 10 A Dennis Buchanan. 11 Q Can you take a look at MSO-8(d), which is Karla 12 Southerland. 13 HEARING OFFICER SCHAEFER: <small>Oh, it's in there.</small> 14 order. 15 MR. FELSTINER: <small>They should be in order. I'm going to</small> 16 attempt to do this in order, so it can be as quick as possible. 17 HEARING OFFICER SCHAEFER: Yeah. 18 THE WITNESS: There it is. Got it. 19 HEARING OFFICER SCHAEFER: <small>Which document?</small> 20 BY MR. FELSTINER: 21 Q There is an email in here, dated Tuesday, November 24, 22 2015. 23 A All right. Yeah. Yeah. Yes. Um-hum. 24 Q Is this from your email address? 25 A Yes.</p>	<p style="text-align: right;">Page 637</p> <p>1 A Yeah. 2 Q McCullough? 3 A Yes, you are. 4 Q Okay. There's a lot on this one, so -- 5 A Because she's new. 6 Q Were you involved in hiring Ms. McCullough? 7 A Yes. 8 Q Okay. So -- do you see a checklist that says "Human 9 Resources New Hire Checkoff List"? 10 A Yes. 11 Q Are you familiar with this document? 12 A Yes. 13 Q Did you fill out this document? 14 A No. Oh -- no, I didn't. Oh, yes, I did. 15 Q Can you turn to the -- 16 A Part of it, yeah. 17 Q Can you turn to -- 18 A Because it's -- 19 HEARING OFFICER SCHAEFER: <small>What document?</small> 20 to? 21 THE WITNESS: The back I did. 22 HEARING OFFICER SCHAEFER: <small>What document?</small> 23 "Clear," and -- 24 THE WITNESS: Yeah. 25 HEARING OFFICER SCHAEFER: <small>What document?</small></p>
<p style="text-align: right;">Page 636</p> <p>1 Q The addressees are Jean Belcourt, Ranjun Wen, Vitally -- 2 I'm not going to pronounce that right. 3 A Yeah. Um-hum. 4 Q Okay. So who is Vitally? Who are Jenny and Vitally on 5 the first lines there? 6 A They are general accounting workers. They work in general 7 accounting. 8 Q For Methodist Hospital? 9 A Yes. 10 Q And then a little bit further down the page, says from 11 "NYM HR Copier." 12 A Yeah. 13 Q What is that? 14 A It's the copy machine that I use to scan documents. 15 Q Where is that located? 16 A Located in human resources building, 435, where I work. 17 Q See the new hire authorization form in this packet? 18 A Yes. 19 Q Do you recognize the signature under "HR Approval" line? 20 A Yes. 21 Q Who is it? 22 A Dennis Buchanan. 23 Q All right. Take a look at 8(f), which is, I hope I'm 24 going to pronounce this right, Erica McCullough? Am I saying 25 that right?</p>	<p style="text-align: right;">Page 638</p> <p>1 BY MR. FELSTINER: 2 Q What? Where? "Clear" is your handwriting? 3 A "Clear" is mine, yeah. 4 Q In the middle, okay. 5 A Yeah. 6 Q Can you turn to the next page where it says, "Human 7 Resources Entry Audit Checkoff List"? 8 A Yes. 9 Q Are you familiar with this document? 10 A Yes. 11 Q Okay. And the data enterer's signature, do you recognize 12 the signature? 13 A Yes. 14 Q Who is that? 15 A Maria Pace. 16 Q Did you say Maria or Marielle? 17 A Maria. 18 Q Maria. Who is Maria Pace? 19 A She is an HR associate. 20 Q For MSO or New York Methodist? 21 A New York Methodist. 22 Q Does she generally complete these forms for employees who 23 are going to be hired into 1 Prospect Park West? 24 A This form -- 25 MR. FRANK: Objection to form. 1 Prospect Park West</p>

<p style="text-align: right;">Page 639</p> <p>1 doesn't hire anybody.</p> <p>2 MR. FELSTINER: I -- fair enough. Withdrawn.</p> <p>3 BY MR. FELSTINER:</p> <p>4 Q Does she generally complete these forms for employees who</p> <p>5 are going to be hired into the urology facility located at 1</p> <p>6 Prospect Park West or the wound care facility located at 1</p> <p>7 Prospect Park West?</p> <p>8 A Yes.</p> <p>9 Q Okay. Can you find the "Consents and Acknowledgements"</p> <p>10 form?</p> <p>11 HEARING OFFICER SCHAEFER: _____</p> <p>12 form?</p> <p>13 MR. FELSTINER: Yeah. I'll see if I can direct you to it.</p> <p>14 It says --</p> <p>15 MR. FRANK: Don't all these documents speak for</p> <p>16 themselves?</p> <p>17 MR. FELSTINER: I have a question about the document. I'm</p> <p>18 not going to ask about the -- what it says on there.</p> <p>19 BY MR. FELSTINER:</p> <p>20 Q Can you -- did you find it?</p> <p>21 A Which one? Oh, no. No.</p> <p>22 Q Oh, "MSO of Kings County New Hire Data" at the top, and</p> <p>23 then it says, "Consents and Acknowledgements."</p> <p>24 A Oh, oh, oh, okay.</p> <p>25 HEARING OFFICER SCHAEFER: _____</p>	<p style="text-align: right;">Page 641</p> <p>1 the policy and they will comply with it?</p> <p>2 A Yes.</p> <p>3 Q Under "Employee Handbook," when the employee initials</p> <p>4 here, they're initially that they have clicked this handbook</p> <p>5 and that they will -- that they've reviewed it and that they</p> <p>6 will comply by those policies?</p> <p>7 A Yes.</p> <p>8 Q Okay. A little bit further on in the same packet, there</p> <p>9 is an info -- "Information Systems Confidentiality Agreement."</p> <p>10 Do you see that?</p> <p>11 A Yes.</p> <p>12 Q Is this one filled out online, too?</p> <p>13 A Yes.</p> <p>14 Q And there's also a handwritten signature?</p> <p>15 A Yes.</p> <p>16 Q And this was in 2016; correct?</p> <p>17 A Yes.</p> <p>18 Q But who's signature is that?</p> <p>19 A Dynasty Gonzalez.</p> <p>20 Q Who is Dynasty Gonzalez?</p> <p>21 A She's an (sic) talent acquisition coordinator.</p> <p>22 Q For Methodist Hospital?</p> <p>23 A Yes.</p> <p>24 Q Does she normally review the information systems</p> <p>25 confidentiality statements?</p>
<p style="text-align: right;">Page 640</p> <p>1 MR. FELSTINER: Sure. It might be probably one that's</p> <p>2 something --</p> <p>3 HEARING OFFICER SCHAEFER: Okay.</p> <p>4 MR. FELSTINER: This is what it --</p> <p>5 THE WITNESS: Oh, okay, I passed that already.</p> <p>6 MR. FRANK: The one dated 2/16 --</p> <p>7 MR. FELSTINER: Yes, it's dated 2/16/2016.</p> <p>8 HEARING OFFICER SCHAEFER: _____</p> <p>9 THE WITNESS: Got it.</p> <p>10 MR. FELSTINER: Okay.</p> <p>11 BY MR. FELSTINER:</p> <p>12 Q What is this document?</p> <p>13 A It's a new hire data consent form.</p> <p>14 Q Employees fill this out online?</p> <p>15 A Yes. Online.</p> <p>16 Q Before they're hired or after?</p> <p>17 A After they're hired.</p> <p>18 Q Okay.</p> <p>19 A And they have to put in their initials after reading each</p> <p>20 of the documents that are described in this --</p> <p>21 A Yes.</p> <p>22 Q So under "Corporate Compliance Plan," they would click</p> <p>23 this link and read and then they would initial them?</p> <p>24 A Yes.</p> <p>25 Q And they're representing that they've read the document --</p>	<p style="text-align: right;">Page 642</p> <p>1 A This --</p> <p>2 Q This document we're looking at here.</p> <p>3 A She reviews that they signed it, yes.</p> <p>4 Q Okay. Take a look --</p> <p>5 HEARING OFFICER SCHAEFER: _____</p> <p>6 THE WITNESS: Okay.</p> <p>7 BY MR. FELSTINER:</p> <p>8 Q -- the -- there should be a set of emails at the very back</p> <p>9 of this packet.</p> <p>10 HEARING OFFICER SCHAEFER: _____</p> <p>11 MR. FELSTINER: Same packet, 8(f).</p> <p>12 THE WITNESS: Okay.</p> <p>13 MR. FELSTINER: If my memory is any good at all.</p> <p>14 HEARING OFFICER SCHAEFER: Yeah.</p> <p>15 THE WITNESS: Yeah.</p> <p>16 BY MR. FELSTINER:</p> <p>17 Q Do you see that email string?</p> <p>18 A Sort of. Yeah. Yeah, got it. Um-hum.</p> <p>19 Q June 16, 2015 is before you began working at -- on the</p> <p>20 second floor at the 9th Street office; correct?</p> <p>21 A Yes. Um-hum.</p> <p>22 Q Okay. It refers to the hiring of a physician assistant.</p> <p>23 What -- do you know who was -- if there was a physician</p> <p>24 assistant hired around mid -- middle of 2015?</p> <p>25 MR. FRANK: Objection, since this --</p>

Page 643	Page 645
<p>1 THE WITNESS: I don't know. 2 MR. FRANK: -- individual -- 3 THE WITNESS: I mean, I don't know. 4 MR. FRANK: Never mind. You answered. 5 MR. FELSTINER: Can I have a moment, please? 6 HEARING OFFICER SCHAEFER: Sure. 7 MR. FELSTINER: Just to get some things in order and see 8 if I can make this faster. 9 HEARING OFFICER SCHAEFER: Okay. 10 (Whereupon, a brief recess was taken.) 11 HEARING OFFICER SCHAEFER: <small>Back on the record.</small> 12 (Pause.) 13 MR. FRANK: Are we off the record? 14 MR. FELSTINER: We can go back off. 15 HEARING OFFICER SCHAEFER: Yes. 16 MR. FRANK: While we're off the record -- 17 HEARING OFFICER SCHAEFER: <small>Let's go off the record.</small> 18 (Whereupon, a brief recess was taken.) 19 HEARING OFFICER SCHAEFER: <small>Back on the record.</small> 20 CROSS-EXAMINATION (continued) 21 BY MR. FELSTINER: 22 Q Can you take a look at 8(l)? 23 HEARING OFFICER SCHAEFER: <small>Well, as in Larry.</small> 24 MR. FELSTINER: As in Larry. 25 THE WITNESS: Got it. Okay. Yeah, um-hum.</p>	<p>1 HEARING OFFICER SCHAEFER: <small>Why don't you ask him.</small> 2 yeah, I agree with Mr. Franks on this one. I think there's a 3 clearer way to ask that question that might -- than -- 4 Why don't we get some back -- what is the -- what is this 5 form used for? 6 THE WITNESS: This is an employee change status form that 7 is used for many different changes for an employee. 8 HEARING OFFICER SCHAEFER: <small>Is that the one that?</small> 9 THE WITNESS: Yes. Yes. And it depends on what section a 10 person would sign. 11 HEARING OFFICER SCHAEFER: Okay. 12 THE WITNESS: Yeah. 13 HEARING OFFICER SCHAEFER: <small>Is that the one -- and you</small> 14 filled -- have you ever fill -- do you -- are you a person that 15 would sign this form? 16 THE WITNESS: Yes. 17 HEARING OFFICER SCHAEFER: <small>Okay, then, what would you</small> 18 sign this form? 19 THE WITNESS: A department head; Suzanne Wood. 20 HEARING OFFICER SCHAEFER: <small>Okay, and what about</small> 21 else? 22 THE WITNESS: I would -- that would -- might be all. 23 HEARING OFFICER SCHAEFER: Okay. 24 THE WITNESS: It's not necessarily an "all" -- 25 HEARING OFFICER SCHAEFER: Okay.</p>
Page 644	Page 646
<p>1 BY MR. FELSTINER: 2 Q Do you see the "Employee Status Change" form? 3 A Yes. 4 Q Okay. Which is dated 2010, so -- 5 A Yes. 6 Q -- no question about -- but I'm trying to figure out, are 7 you familiar with this form? Not this specific document but 8 this type of form? 9 A Yes. 10 Q Yes. 11 MR. FRANK: I'm going to object to this on the grounds 12 that it pre-dates this witness by five years. 13 HEARING OFFICER SCHAEFER: <small>Okay, that's correct.</small> 14 next question is. The Witness has testified she's -- 15 Is that still a form you use? 16 THE WITNESS: Yes. 17 HEARING OFFICER SCHAEFER: Okay. 18 BY MR. FELSTINER: 19 Q In the "Section E: Approval" section, you still use this 20 form; who would normally sign under "Department Head"? 21 A Hmm. 22 MR. FRANK: I'm going to object to the question because -- 23 HEARING OFFICER SCHAEFER: Okay. 24 MR. FELSTINER: We're trying to establish -- this is a 25 status change form --</p>	<p>1 THE WITNESS: Yeah. 2 HEARING OFFICER SCHAEFER: <small>Is that the one that you</small> 3 version of the form? 4 THE WITNESS: No, it's -- it's the same but over -- 5 just -- signatures are not always required. 6 HEARING OFFICER SCHAEFER: <small>Okay, and what about</small> 7 what type of document -- 8 THE WITNESS: Yes. 9 HEARING OFFICER SCHAEFER: -- it is? 10 THE WITNESS: Yes. 11 HEARING OFFICER SCHAEFER: <small>Is that the one that you</small> 12 THE WITNESS: Yes. 13 HEARING OFFICER SCHAEFER: <small>Is that the one that you</small> 14 is being done? 15 THE WITNESS: This -- yes. Yes. 16 HEARING OFFICER SCHAEFER: Okay. 17 THE WITNESS: Um-hum. 18 HEARING OFFICER SCHAEFER: <small>Okay, then, what would you</small> 19 Felstiner. 20 MR. FELSTINER: Well, I guess I'll follow-up on that. 21 BY MR. FELSTINER: 22 Q So what kind of document requires your -- what kind of 23 change requires your signature? 24 A A change in salary. 25 Q What kind of -- would a change in salary also require the</p>

<p style="text-align: right;">Page 647</p> <p>1 signature of, say, the office manager in one of these places?</p> <p>2 A They would --</p> <p>3 Q Wound care or urology?</p> <p>4 A They would. To know what's going on, yes.</p> <p>5 Q Would it also require the signature of Dennis Buchanan, as</p> <p>6 you can see on this sheet?</p> <p>7 A It -- it was here, yes.</p> <p>8 Q Do you recognize what kind of change is being approved by</p> <p>9 this form?</p> <p>10 A Yes. This is an increase.</p> <p>11 HEARING OFFICER SCHAEFER: <small>A salary increase?</small></p> <p>12 THE WITNESS: Yes.</p> <p>13 HEARING OFFICER SCHAEFER: Okay.</p> <p>14 BY MR. FELSTINER:</p> <p>15 Q And do you recognize the signature at the bottom?</p> <p>16 A That -- yes, Erica.</p> <p>17 Q Erica. And the other signature under "Human Resources</p> <p>18 Approval"?</p> <p>19 A Does look like Dennis'. Dennis.</p> <p>20 Q Can you take a look at the -- there's another employee</p> <p>21 status change form dated 2/8/11 in this file.</p> <p>22 MR. FRANK: Objection, these documents speak for</p> <p>23 themselves.</p> <p>24 HEARING OFFICER SCHAEFER: <small>That's not proper to say</small></p> <p>25 MR. FRANK: I mean, 2010.</p>	<p style="text-align: right;">Page 649</p> <p>1 THE WITNESS: Yes. Yes. I would.</p> <p>2 HEARING OFFICER SCHAEFER: <small>Thank you.</small></p> <p>3 BY MR. FELSTINER:</p> <p>4 Q You would have to approve?</p> <p>5 A Yes.</p> <p>6 Q Would you also need Mr. Buchanan's approval?</p> <p>7 A Yes. He does sign them.</p> <p>8 Q Okay.</p> <p>9 MR. FRANK: And again, I object, this is 2011. It has no</p> <p>10 bearing on current practices.</p> <p>11 HEARING OFFICER SCHAEFER: <small>Yes, because...</small></p> <p>12 Dennis Buchanan sign them, and she answered yes. The Witness</p> <p>13 has testified she uses this form.</p> <p>14 THE WITNESS: <small>Actually today someone else would complete</small></p> <p>15 this.</p> <p>16 HEARING OFFICER SCHAEFER: <small>That's not the...</small></p> <p>17 I want everybody paying attention.</p> <p>18 MR. FELSTINER: Yes.</p> <p>19 HEARING OFFICER SCHAEFER: <small>Is that what you want?</small></p> <p>20 THE WITNESS: So Mabel --</p> <p>21 HEARING OFFICER SCHAEFER: <small>That's not the...</small></p> <p>22 would fill this out?</p> <p>23 THE WITNESS: <small>Today someone else would also have a</small></p> <p>24 signature, and I don't know who that signature is.</p> <p>25 HEARING OFFICER SCHAEFER: <small>That's not the...</small></p>
<p style="text-align: right;">Page 648</p> <p>1 HEARING OFFICER SCHAEFER: <small>Is the difference -- I just</small></p> <p>2 want to clarify, we're not going to go through every one and</p> <p>3 have her identify that it's Buchanan's signature on them, are</p> <p>4 we?</p> <p>5 MR. FELSTINER: No. No. No, no, no. It's just that --</p> <p>6 my understanding is that this is a different kind of change, so</p> <p>7 I'm trying to just illustrate which -- she said which kinds of</p> <p>8 changes -- some kinds of changes --</p> <p>9 HEARING OFFICER SCHAEFER: Oh.</p> <p>10 MR. FELSTINER: -- require signatures and some don't.</p> <p>11 HEARING OFFICER SCHAEFER: <small>All right.</small></p> <p>12 BY MR. FELSTINER:</p> <p>13 Q Do you recognize what kind of change is --</p> <p>14 A Yes.</p> <p>15 Q -- being made here?</p> <p>16 A Um-hum.</p> <p>17 Q What is it?</p> <p>18 A A person being put on leave. Medical leave.</p> <p>19 Q And who would have to sign --</p> <p>20 A Oh, not medical, sorry.</p> <p>21 Q -- and approve that?</p> <p>22 HEARING OFFICER SCHAEFER: <small>That's not the...</small></p> <p>23 specific type, but it's a leave --</p> <p>24 THE WITNESS: Okay, good.</p> <p>25 HEARING OFFICER SCHAEFER: <small>That's not the...</small></p>	<p style="text-align: right;">Page 650</p> <p>1 Section E of the document?</p> <p>2 THE WITNESS: Yeah. Yeah. Yeah.</p> <p>3 HEARING OFFICER SCHAEFER: <small>Okay, but --</small></p> <p>4 THE WITNESS: Mabel from the leave department --</p> <p>5 HEARING OFFICER SCHAEFER: <small>Might sign that?</small></p> <p>6 THE WITNESS: Yes.</p> <p>7 HEARING OFFICER SCHAEFER: Okay.</p> <p>8 THE WITNESS: Because she would generate it.</p> <p>9 HEARING OFFICER SCHAEFER: Okay.</p> <p>10 BY MR. FELSTINER:</p> <p>11 Q Is Mabel a leave specialist?</p> <p>12 A To let me know. Yes.</p> <p>13 Q With New York Methodist Hospital?</p> <p>14 A Yes.</p> <p>15 Q Do people -- well, so when somebody makes a leave request,</p> <p>16 you testified earlier that they would make a leave request to -</p> <p>17 - to an office manager.</p> <p>18 A Yeah.</p> <p>19 Q Does the office manager then pass it along to the leave</p> <p>20 department?</p> <p>21 A They may pass it on to me or the leave department.</p> <p>22 There's a package, leave -- and MSO leave package that they are</p> <p>23 given.</p> <p>24 Q Does MSO carry malpractice insurance?</p> <p>25 A I'm not aware of that.</p>

Page 651	Page 653
<p>1 MR. FELSTINER: We don't have anything further.</p> <p>2 HEARING OFFICER SCHAEFER: <small>Okay. I think it's enough.</small></p> <p>3 questions. We were just talking about leave. When the</p> <p>4 employees want to take leave, do they have to fill out a</p> <p>5 form --</p> <p>6 THE WITNESS: Yes.</p> <p>7 HEARING OFFICER SCHAEFER: <small>The way that they have to</small></p> <p>8 going to be?</p> <p>9 THE WITNESS: Yes.</p> <p>10 HEARING OFFICER SCHAEFER: <small>Okay. That's correct.</small></p> <p>11 It -- it goes -- we've had some testimony that it goes to the</p> <p>12 office manager.</p> <p>13 THE WITNESS: Um-hum.</p> <p>14 HEARING OFFICER SCHAEFER: <small>That's correct. The office</small></p> <p>15 manager send it to you?</p> <p>16 THE WITNESS: Yes.</p> <p>17 HEARING OFFICER SCHAEFER: <small>That's correct. The office</small></p> <p>18 with it?</p> <p>19 THE WITNESS: I look at it and I send it over to the leave</p> <p>20 department.</p> <p>21 HEARING OFFICER SCHAEFER: <small>Okay. That's correct.</small></p> <p>22 employee -- when you're doing the ADP payroll --</p> <p>23 THE WITNESS: Yes.</p> <p>24 HEARING OFFICER SCHAEFER: <small>Are you saying the payroll is</small></p> <p>25 you -- would -- does that information also go in that?</p>	<p>1 them run it? Is that the order?</p> <p>2 THE WITNESS: Yes. Yes.</p> <p>3 HEARING OFFICER SCHAEFER: <small>That's correct.</small></p> <p>4 sort of contract with the doctors that work in --</p> <p>5 THE WITNESS: I'm not aware of that.</p> <p>6 HEARING OFFICER SCHAEFER: <small>That's correct.</small></p> <p>7 Okay. Do you know if the doctors are part of -- and</p> <p>8 again, if you know, whether the doctors have some sort of,</p> <p>9 like, either LLP or sort of company that they operate out of,</p> <p>10 that they then work with MSO to run the -- to help staff the</p> <p>11 office?</p> <p>12 THE WITNESS: They are Brooklyn Urology, PC.</p> <p>13 HEARING OFFICER SCHAEFER: <small>That's correct.</small></p> <p>14 Urology, PC is --</p> <p>15 THE WITNESS: Contracts as --</p> <p>16 HEARING OFFICER SCHAEFER: <small>That's correct.</small></p> <p>17 THE WITNESS: Yes.</p> <p>18 HEARING OFFICER SCHAEFER: <small>That's correct.</small></p> <p>19 between Brooklyn Urology and MSO?</p> <p>20 THE WITNESS: I'm unaware of that.</p> <p>21 HEARING OFFICER SCHAEFER: <small>That's correct.</small></p> <p>22 the only person that you -- are there people other than Dennis</p> <p>23 Buchanan that you're -- you are -- that are above you in terms</p> <p>24 of MSO?</p> <p>25 THE WITNESS: (No response.)</p>
Page 652	Page 654
<p>1 THE WITNESS: Yes. Yes. A status change for form a</p> <p>2 leave.</p> <p>3 HEARING OFFICER SCHAEFER: <small>Okay. That's correct.</small></p> <p>4 pays the -- if MSO has a lease or if MSO owns the building at 1</p> <p>5 Prospect Park West?</p> <p>6 THE WITNESS: I'm not aware of that.</p> <p>7 HEARING OFFICER SCHAEFER: <small>That's correct.</small></p> <p>8 if MSO pays rent to someone for that space?</p> <p>9 MR. FRANK: I'm going to object.</p> <p>10 THE WITNESS: I'm not sure. I'm not sure.</p> <p>11 HEARING OFFICER SCHAEFER: <small>Are you familiar with the</small></p> <p>12 arrangements that --</p> <p>13 All right, I understand that MSO stands -- MSO is a</p> <p>14 management services organization.</p> <p>15 THE WITNESS: Um-hum.</p> <p>16 HEARING OFFICER SCHAEFER: <small>Okay. That's correct.</small></p> <p>17 unclear on that, so I'm going to ask you some questions on how</p> <p>18 that works.</p> <p>19 THE WITNESS: Okay.</p> <p>20 HEARING OFFICER SCHAEFER: <small>Okay. That's correct.</small></p> <p>21 contractual relationship with -- I guess, wait, let me</p> <p>22 backtrack for a second.</p> <p>23 Is -- does the doctor -- does a doctor decide that he's</p> <p>24 going to open up -- or he or she is going to open a</p> <p>25 psychology's practice and then they reach out to MSO to help</p>	<p>1 HEARING OFFICER SCHAEFER: <small>That's correct.</small></p> <p>2 Buchanan being officers at MSO.</p> <p>3 THE WITNESS: Right.</p> <p>4 HEARING OFFICER SCHAEFER: <small>That's correct.</small></p> <p>5 report to, other than those two?</p> <p>6 THE WITNESS: No.</p> <p>7 HEARING OFFICER SCHAEFER: <small>That's correct.</small></p> <p>8 paycheck say?</p> <p>9 THE WITNESS: MSO of Kings County, care of --</p> <p>10 HEARING OFFICER SCHAEFER: Okay.</p> <p>11 THE WITNESS: Same -- same --</p> <p>12 HEARING OFFICER SCHAEFER: <small>That's correct.</small></p> <p>13 THE WITNESS: Exactly that. Yeah.</p> <p>14 HEARING OFFICER SCHAEFER: Okay.</p> <p>15 THE WITNESS: Care of New York Methodist.</p> <p>16 HEARING OFFICER SCHAEFER: <small>That's correct.</small></p> <p>17 go on vacation, who do you tell?</p> <p>18 THE WITNESS: Dennis.</p> <p>19 HEARING OFFICER SCHAEFER: <small>Okay. Mr. Frank?</small></p> <p>20 MR. FELSTINER: No further questions.</p> <p>21 HEARING OFFICER SCHAEFER: Okay.</p> <p>22 MR. FRANK: Thank you.</p> <p>23 HEARING OFFICER SCHAEFER: <small>That's correct.</small></p> <p>24 THE WITNESS: You're welcome.</p> <p>25 (Witness excused.)</p>

Page 655

1 HEARING OFFICER SCHAEFER:
2 (Whereupon, at 4:25 p.m., the hearing in the above-entitled
3 matter was adjourned until April 13, 2016 at 9:30 a.m.)
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Page 656

C E R T I F I C A T E

This is to certify that the attached proceedings done before
the NATIONAL LABOR RELATIONS BOARD REGION TWENTY-NINE

In the Matter of:

NEW YORK METHODIST/MSO OF KINGS COUNTY, LLC,
Employer,
and
1199 SEIU, UNITED HEALTHCARE WORKERS EAST,
Petitioner.

Case No.: 29-RC-172410

Date: April 12, 2016

Place: Brooklyn, New York

Were held as therein appears, and that this is the original
transcript thereof for the files of the Board

Official Reporter

BURKE COURT REPORTING, LLC
1044 Route 23 North, Suite 206
Wayne, New Jersey 07470
(973) 692-0660

	2010 (2) 644:4;647:25	655:2		636:1
1	2011 (1) 649:9	4:30 (2) 593:18,24	A	adjourned (1) 655:3
1 (29) 546:16,24;551:9, 11;556:16,23; 559:21;561:12; 569:20,25;570:2; 571:21,24;574:14; 588:20;589:12; 594:9;597:13; 604:23;605:17; 611:12;613:4,18; 617:11;638:23,25; 639:5,6;652:4	2013 (1) 628:20	401k (4) 579:16,18,19,23	Abigail (2) 567:1;599:10	adjust (1) 593:20
	2014 (4) 546:8;551:9,25; 632:7	435 (4) 557:1;597:2;604:7; 636:16	above (1) 653:23	adjusting (2) 569:7,10
	2015 (8) 554:16;567:6; 597:18;599:8; 604:23;635:22; 642:19,24	5	above-entitled (1) 655:2	adjustments (1) 605:4
	2016 (4) 605:18;607:3; 641:16;655:3	5 (2) 593:18,25	absence (1) 621:6	administrative (8) 543:8;555:6; 558:20;572:11,12; 584:14,20;618:19
1:00 (1) 550:7	2018 (2) 546:9;551:9	5:30 (2) 593:19,25	absences (1) 587:8	ADP (6) 611:18;612:19,20, 20;629:3;651:22
1:42 (1) 551:2	22 (1) 570:6	501 (1) 633:8	absolutely (1) 622:21	advise (1) 566:14
100 (2) 552:5;619:11	24 (1) 635:21	506 (1) 544:20	accept (1) 587:2	again (5) 600:22;610:18; 618:25;649:9;653:8
11 (3) 584:15,19,23	24/7 (2) 556:2,3	6	acceptable (1) 545:8	agencies (1) 613:10
11:45 (1) 543:2	27th (1) 545:11	6 (3) 554:16;556:22; 599:7	acceptance (1) 567:14	ago (1) 552:17
1199 (4) 547:10,10,21; 552:3	29 (1) 543:13	6th (4) 544:20;556:11; 633:9,10	accepts (2) 586:24;587:5	agree (1) 645:2
1199's (1) 552:1	29-RC-127410 (1) 543:6	7	access (2) 600:14;601:1	agreement (12) 546:15,24;547:5, 12,17,21;548:3; 551:8,9;566:11; 607:14;641:9
12 (1) 543:8	29-RC-9326 (1) 544:17	75 (1) 567:4	Accounting (2) 552:23;579:5	agreements (2) 547:16;565:3
12:07 (1) 550:12	3	7th (2) 556:12;557:1	account (2) 619:18,24	ahead (6) 546:13;552:11; 562:21;606:19; 646:18;649:19
127398 (1) 543:8	3 (4) 604:25;606:22; 607:1;627:21	8	accounting (5) 611:20;612:13,17; 636:6,7	allegation (2) 622:19,22
127410 (1) 543:4	30 (1) 546:6	8 (1) 563:24	accuracy (3) 552:13,16;553:3	allegations (1) 623:6
12th (1) 543:5	30a (4) 546:7;551:7,7,16	8:30 (2) 593:18,24	accurate (1) 574:10	allotment (1) 579:5
13 (2) 570:7;655:3	30b (1) 546:7	8a (1) 544:9	Acknowledgement (1) 639:11	along (1) 650:19
15 (2) 580:18;582:4	31 (1) 553:14	8f (2) 636:23;642:11	Acknowledgements (2) 639:9,23	Alvin (1) 545:1
16 (2) 604:23;642:19	31's (1) 553:17	8l (2) 643:22,23	acquisition (5) 596:10;600:21,23; 615:13;641:21	always (4) 565:21;567:24; 570:1;646:5
1982 (1) 551:11	32 (6) 627:17,22,23,24; 631:11;633:11	8m (4) 563:11,16;566:20; 598:25	Act (1) 544:24	amount (2) 605:7,16
1987 (1) 551:9	32's (1) 631:14	8o (1) 544:9	actions (1) 554:24	anesthesia (1) 575:6
19-something (2) 545:11,13	33 (4) 631:19;633:11,12, 25	9	Actually (6) 603:21;609:14; 612:7;616:7;620:16; 649:14	Ann (4) 596:6,13,19,20
2	34 (2) 634:22,25	9 (2) 593:18,25	acute (7) 555:22;556:1,7; 557:11,25;558:12,15	answered (3) 575:12;643:4; 649:12
2/16 (1) 640:6	4	9:30 (3) 593:18,25;655:3	add (1) 595:13	apart (1) 556:22
2/16/2016 (1) 640:7	4:25 (1)	9th (5) 557:1;595:22; 597:2;604:4;642:20	addition (2) 589:1;624:22	apologies (1)
2/8/11 (1) 647:21			additional (1) 612:6	
20 (2) 567:6;590:19			address (1) 635:24	
			addressees (1)	

599:5 appears (1) 552:16 applicable (4) 546:15;547:14; 560:14;568:5 applicant (12) 564:18;565:25; 566:1,7,8,12,24,25; 599:25;600:9,13; 601:24 applicants (5) 560:13,14;565:8; 566:4,14 application (18) 560:24;561:1,16; 562:23;563:5,12,13, 20;564:4,21;565:6, 14,23;594:24;614:4, 7,10,19 application's (1) 565:21 applies (1) 546:25 apply (2) 560:13;613:24 applying (1) 564:4 appointment (1) 576:4 appointments (2) 572:13;586:2 appoints (2) 559:17;567:24 approached (1) 624:16 appropriate (1) 560:20 approval (9) 620:15;629:8; 630:15,18;635:9; 636:19;644:19; 647:18;649:6 approve (5) 579:15;620:22; 624:16;648:21;649:4 approved (5) 579:9,10;629:21; 630:4;647:8 Approves (1) 586:24 approximately (6) 571:6,15;580:17; 584:23,24;585:5 April (2) 543:5;655:3 area (3) 589:7;593:13,13 arise (1) 555:1 around (1) 642:24 arrangements (1)	652:12 assess (1) 572:7 assignment (1) 559:23 assist (2) 574:12;575:3 assistant (7) 567:5;572:1,1; 574:9;585:3;642:22, 24 assistants (28) 549:15;572:6,7,11, 12;573:1,2;574:4; 575:8,9,17,18,22,23; 576:10,11,14;577:2, 5,12;584:14,14,19, 20,21;585:2,4;588:5 associate (1) 638:19 associated (1) 618:22 attempt (2) 621:16;635:16 attention (2) 614:16;649:17 at-will (2) 567:19,23 Audit (1) 638:7 authorization (5) 628:5,6;634:9; 635:7;636:17 authorized (1) 619:20 available (1) 560:12 Avenue (3) 556:12,22;557:1 aware (10) 607:20;611:2; 615:24;616:1,13; 619:5,19;650:25; 652:6;653:5 away (1) 569:23	570:11,13,14,24, 25;608:14 bank (2) 619:18,24 barcode (1) 570:16 bargaining (9) 546:15,24;547:4, 21;549:16,21;551:8; 552:8;553:13 based (2) 600:8;603:7 basically (2) 572:7;593:24 bearing (1) 649:10 become (1) 554:14 began (4) 601:5;604:16; 626:13;642:19 begin (2) 560:13;632:17 begun (1) 607:1 behalf (3) 554:2;619:20; 620:17 behavior (1) 601:25 Belcourt (1) 636:1 believes (1) 552:7 below (6) 565:11;584:11,12, 25;634:15,15 benefit (3) 616:4,9;617:18 benefits (6) 578:5;617:12,17, 18;618:16,17 beside (1) 580:12 best (1) 560:3 big (1) 590:12 billing (2) 619:6,9 bills (1) 607:22 bit (3) 624:14;636:10; 641:8 bi-weekly (1) 567:5 blocks (2) 557:3,3 blood (2) 575:25;576:9 Blue (2) 570:25,25	Blyer (1) 545:1 Board (4) 546:16;547:1,5; 621:12 Bock (6) 603:24,25;615:9; 630:17;634:17,18 B-O-C-K (2) 604:3,4 book (2) 572:13;586:2 bookings (1) 572:14 borough (1) 556:13 both (9) 551:10;559:5; 569:3;570:15; 578:11;597:22,23; 598:8;612:4 bottom (5) 565:10;570:17; 629:4;632:21;647:15 Boulevard (7) 577:25;581:6; 609:18,25;610:3,5,12 boxes (3) 565:5,8,21 break (2) 550:6;593:13 brief (5) 546:3;584:6; 625:14;643:10,18 bring (1) 575:24 broad (1) 621:21 Brooklyn (13) 544:21;556:14,18, 20;571:4,18;581:9; 609:3,6,19;653:12, 13,19 Buchanan (14) 606:3,4;607:25; 608:1;613:16; 615:23;616:2; 630:21;635:10; 636:22;647:5; 649:12;653:23;654:2 Buchanan's (2) 648:3;649:6 Buchannan (1) 611:4 building (17) 557:7;558:16; 589:13,17;590:8,11, 12,13,16,20;591:11, 20;597:2,22;633:8; 636:16;652:4 business (3) 554:20,21;619:2	C calendar (1) 579:14 call (3) 560:16;587:5; 591:6 called (6) 554:2;555:18; 560:11;570:8; 573:16;600:6 calls (2) 560:5;587:4 came (1) 566:11 Can (68) 544:15;545:7,14, 21,25;556:22; 558:10;559:11; 560:18,19;561:18; 563:11,25;566:22; 567:2;572:7,8,8,9; 574:4,10,11;575:2; 579:18;580:9;583:3, 6;584:4;588:6,8,8; 592:12;593:6; 594:20;598:25; 602:1,6;604:24; 605:14;610:2; 611:23;614:23; 616:10;618:4; 621:19,22;622:2; 624:14;625:11,11; 626:25;627:2; 629:17;635:11,16; 637:15,17;638:6; 639:9,13,20,25; 643:5,8,14,22;647:6, 20 candidate (1) 566:12 card (4) 586:4;620:3,6,13 care (46) 554:25;555:16,22; 556:1,7;557:11; 558:1,15;560:3; 561:13;568:17,20,23; 580:2,21;584:25; 585:12,25;586:13,19; 588:5;589:8,10; 593:16,17;594:3,6; 597:13,19;598:16,21; 601:7;604:12,18; 605:22;607:10; 609:7;613:1,7; 619:10;621:15; 623:25;639:6;647:3; 654:9,15 carry (1) 650:24 Case (5)
--	--	--	---	---

543:8;544:15,16; 601:4;621:17 categories (1) 586:15 caught (1) 612:11 CBA (1) 546:7 Center (12) 585:25;586:13; 589:8,10;597:13,19; 601:7,7;604:18; 609:7;613:1,1 centers (3) 554:25;570:8; 624:22 Cerner (11) 573:17,20,20,22, 23;574:1;583:14,15; 607:7,12,14 cert (2) 545:3,18 certain (1) 561:17 certification (2) 544:14;549:13 certifications (3) 546:21;547:5; 548:19 certified (6) 546:16,20,25; 547:15;549:1;587:18 certify (1) 565:13 certs (5) 547:4,9;548:18; 553:9,9 Chair (2) 608:6;620:20 chambers (3) 587:25,25;588:2 Chan (8) 568:21;569:3,5; 586:7,14,18,23; 598:14 chance (2) 549:25;550:4 change (13) 604:22;644:2,25; 645:6;646:13,23,24, 25;647:8,21;648:6, 13;652:1 changes (6) 604:15,18,20; 645:7;648:8,8 characterize (1) 601:22 check (2) 613:12,13 checked (1) 565:21 checklist (1) 637:8	Checkoff (2) 637:9;638:7 Checks (1) 586:24 choice (2) 578:7,9 chose (1) 566:11 claims (1) 618:14 clarification (3) 544:6;546:10; 633:14 clarify (5) 547:3,9;588:13; 648:2;653:21 clarifying (1) 588:9 Classification (1) 603:10 classifications (4) 544:20;552:2,6,17 clean (1) 545:15 clear (7) 598:20,23;618:9; 621:10;637:23; 638:2,3 clearance (2) 632:6,17 clearer (1) 645:3 clearly (1) 623:10 clerical (2) 585:24,24 click (1) 640:22 clicked (1) 641:4 client (1) 549:25 clinical (6) 572:1;574:4;585:2, 2,4;588:5 collective (5) 546:14,23;547:4, 21;551:8 collects (1) 572:25 colluded (1) 623:6 color (1) 570:23 combine (1) 612:19 coming (1) 606:23 comments (2) 564:15,16 common (1) 589:22 community (1)	555:17 companies (3) 578:10;607:17,22 company (7) 578:18;582:10; 583:11,15;611:16,18; 653:9 comparators (1) 603:19 compare (1) 603:17 comparing (2) 604:13,14 Compensation (1) 617:20 complete (7) 565:14,23;594:24; 595:1;638:22;639:4; 649:14 completed (2) 565:25;566:6 Compliance (1) 640:22 comply (2) 641:1,6 computer (3) 584:2;599:24; 620:20 concerning (3) 621:2,11;622:7 conditional (1) 567:24 conduct (1) 560:22 confer (1) 575:20 Confidentiality (2) 641:9,25 confirm (1) 616:8 consent (3) 552:12;639:11; 640:13 Consents (2) 639:9,23 Consolidated (8) 582:10,11,12,18, 20,22;610:22,25 contact (1) 566:12 contained (3) 547:17;565:13; 568:2 contains (1) 628:8 contents (1) 632:10 continue (1) 621:20 continued (7) 563:8;584:8; 594:22;624:3; 625:16;634:3;643:20	contract (10) 546:8;547:11; 549:9;552:1;610:25; 613:17;618:22; 619:1;653:4,18 Contractor (1) 570:22 Contracts (2) 653:15,16 contractual (1) 652:21 contrary (2) 552:19;553:9 contribute (1) 579:20 contribution (1) 579:19 controls (1) 622:14 conversation (2) 592:10,18 coordinator (1) 641:21 co-pays (1) 572:25 Copier (1) 636:11 copies (2) 572:21;586:4 copy (9) 545:6,15,19;546:7, 7;551:7;564:1; 634:20;636:14 Cordero (1) 597:5 corner (1) 596:4 Corporate (1) 640:22 corporation (1) 618:22 correctly (1) 580:19 correspondence (1) 572:22 council (1) 625:20 counsel (3) 562:19,19;575:20 County (29) 554:13,15;555:4,5; 556:14;560:8;561:3, 5;564:5;566:15,23; 567:5,10;568:3,12; 570:10,22;579:19,22, 25;584:10;591:22; 592:25;594:25; 597:17;604:14; 614:15;639:22;654:9 couple (1) 651:2 cover (1) 587:8	coverage (1) 559:19 covered (5) 547:20;559:13,14; 617:22,24 covering (1) 547:5 create (2) 603:11,11 created (2) 603:13;608:4 Creating (1) 554:24 credit (4) 620:3,6,12,13 CROSS-EXAMINATION (5) 595:20;624:3; 625:16;634:3;643:20 CS/LPN (1) 572:2 current (1) 649:10 cut (1) 545:12
D				
daily (2) 598:7,7 Danielle (4) 615:7,10,12,21 data (7) 628:18,25;629:2,6; 638:11;639:22; 640:13 date (3) 545:7,21;572:20 dated (9) 545:11;551:24; 599:7;632:7;635:21; 640:6,7;644:4; 647:21 dates (2) 546:9,9 Davis (1) 616:22 day (2) 559:19;574:1 days (1) 560:5 Daytime (4) 594:1,2,4,5 deal (4) 550:4;555:24,25; 556:1 Dealing (1) 554:25 Deborah (1) 554:11 decide (1) 652:23 decision (2) 598:18;605:8				

decisions (1) 605:9	544:22	distributed (1) 543:24	553:6	585:7;587:12;601:6;
deduct (1) 616:7	dieticians (1) 552:19	distribution (1) 555:2	duly (1) 554:3	602:8,12,19;604:15;
deductible (2) 578:12,17	different (11) 543:22;546:18;	doctor (9) 559:18;574:12;	duties (5) 554:21,23;559:8;	613:9;628:8,9;
defined (2) 544:24;621:12	555:22;561:23;	576:1;578:13,14;	626:23;627:6	632:16;633:2,7,8;
demographic (1) 573:2	578:10,10;580:17;	610:9;633:20;	Dyker (6) 578:1;581:6;	641:3,3;644:2;645:6;
demographics (1) 583:22	592:4;616:4;645:7;	652:23,23	609:19;610:10,11,17	7;647:20;651:22
denies (1) 586:25	differentiate (1) 592:13	doctorcom (2) 583:18,19	Dynasty (2) 641:19,20	employee/MSO (1) 570:22
Dennis (14) 606:3,4;607:25;	Dinnerstein (1) 598:12	doctors (14) 555:18,19,19;	E	employees (84) 544:10,18,23;
608:1;613:16;	Dinnerstein-Wood (3) 558:25;559:9;	558:10;559:11;	earlier (1) 650:16	546:19,22;547:10,20;
615:22;630:21;	602:23	571:21;575:3;	easy (1) 597:23	548:13;551:13;
635:10;636:22;	DIRE (1) 633:15	598:20;602:24;	eat (2) 593:12,14	552:19;554:23;
647:5,19;649:12;	DIRECT (5) 554:8;563:8;584:8;	609:21,25;653:4,7,8	editing (1) 554:24	560:8;561:12;
653:22;654:18	594:22;639:13	doctors' (1) 557:14	effect (3) 549:8;565:12;	568:22,25;569:8,11,
Dennis' (1) 647:19	direction (1) 602:9	doctor's (8) 555:20,21,22,24;	605:17	14,22;570:2,10,23;
dental (3) 578:8;617:6,7	director (6) 569:5;586:6;596:9,	556:2,4;559:20;	effective (2) 567:6;604:23	571:25;572:4;
deny (1) 579:15	17;600:23;604:11	589:10	eight (1) 548:22	573:24;574:1;578:2,
department (17) 543:23;552:1;	disability (3) 618:1,12,14	document (34) 543:12;552:12,13,	either (3) 579:15;594:3;	5;579:2,22,25;580:9;
557:6;596:7,24;	discharged (2) 602:14,15	16;553:4,8,12;	653:9	581:13;582:15,19;
612:14;617:17,18;	Disciplinary (2) 554:23;601:14	563:19;566:22,23;	electronic (3) 583:9;594:24;	583:1,15,25;584:10,
618:16,17;644:20;	discipline (12) 568:11,13,14,15,	567:2,12;599:12;	595:11	23,25;585:5,12,16,
645:19;650:4,20,21;	16;569:14;601:6,10,	627:16;628:2,7,25;	electronically (2) 565:2,24	24;586:10,12;
651:20;653:6	12,13,20,23	631:11,17,22;634:6,	eligible (2) 579:22;617:11	587:15;588:20,23;
depend (1) 646:6	disciplined (1) 568:8	7;635:19;637:11,13;	else (18) 555:3;559:25;	592:12;593:9,12;
depending (2) 593:19;646:11	disciplining (3) 568:22,25;586:12	638:9;639:17;	566:1;584:15;596:5;	594:6,9,24;598:10;
depends (2) 587:10;645:9	discover (1) 621:16	640:12,25;642:2;	598:23;606:2,8;	605:20,22;606:25;
describe (7) 566:22;570:13;	discrepancies (1) 579:15	644:7;646:7,22;	615:16;630:13;	607:3,8;608:14;
574:4;589:4,8;	discuss (2) 566:10;601:11	650:1	645:17,20,21;649:14,	611:11;612:4,24,25;
604:24;605:15	discussed (2) 602:11;634:11	documents (17) 543:20;546:9;	21,23;654:4,12	613:3,6;617:10,10;
described (1) 640:20	discussing (3) 601:9,24;602:10	561:9,11,17;562:5,7,	email (3) 635:21,24;642:17	618:1,12;621:6,14;
describing (1) 553:13	discussion (8) 561:8;568:14,14;	14,16;592:7,11;	emails (1) 642:8	622:10,15,20,20;
description (1) 553:16	592:14;598:11,14;	599:4;625:18;	emergencies (1) 556:1	625:3;638:22;639:4;
descriptions (1) 554:24	602:25;606:8	636:14;639:15;	emergency (5) 582:14,21;583:2,3;	640:14;651:4
desk (7) 572:13,16,18;	discussions (3) 602:18;605:24;	640:20;647:22	610:23	employee's (1) 601:25
573:1;595:7;608:17,	606:2	done (8) 558:13;574:14;	employed (3) 544:18;554:12;	Employer (12) 544:19;548:15;
18	dispositive (1) 553:10	598:3,4;612:10;	561:12	554:2;561:15;592:2,
determined (2) 606:21;623:9	dispute (2) 549:17,18	627:1;642:5;646:14	employee (29) 543:22;544:8;	4,25;621:5;622:10,
diem (1) 577:18	disrespectful (1) 602:9	Donovan (1) 606:9	549:6;554:14;	19;623:13,13
diems (3) 576:25,25;577:19		Donovan's (1) 606:10	563:15;568:8;	Employer's (6) 543:18;544:5,12,
dietician (1)		door (1) 590:4	579:20;584:10;	20;545:24;548:20
		down (4) 589:24;596:3;		employment (4) 555:2;567:8,9,20
		632:21;636:10		end (4) 553:10;565:6;
		Dr (8) 571:3;609:22;		612:24;613:22
		610:2,4,6,7,12,17		endeavoring (1) 553:9
		draw (1) 576:9		ended (1) 626:16
		drawing (1) 619:23		enough (4) 614:20;626:21;
		due (1)		631:4;639:2
				ensure (2) 559:10;576:1
				ensures (2) 560:2;588:1
				ensuring (5) 569:13,14;572:10;
				586:3;587:25

enter (3) 560:12;612:6,9	Excluded (1) 544:23	638:9;644:7;652:11	607:23,24;624:12	626:2
entered (7) 563:10;629:1,4,6; 630:22,23;634:13	Excuse (4) 575:8;576:6; 603:16;617:10	far (2) 556:22;557:2	find (8) 545:7,15,19;553:9; 572:19;600:12; 639:9,20	four (7) 557:3;565:5,8; 571:15;578:7;616:4; 627:12
enterer's (1) 638:11	excused (1) 654:25	faster (1) 643:8	fine (4) 578:25;618:8; 624:2;627:9	Fourteen (1) 581:25
enters (2) 628:18,25	Exhibit (3) 544:9;563:11,24	Feliciano's (4) 543:12,13;562:23; 563:2	firm (3) 619:8,13,16	fourth (1) 596:4
entities (1) 623:8	Exhibits (3) 544:8,10;563:1	FELSTINER (104) 563:15,19,22; 595:17,19,21;596:23; 599:3;600:11; 602:13;603:3;605:5; 11,13;606:20; 608:11;609:9,17; 610:14,19;611:23,25; 614:5,20,21,23; 615:1;616:15;618:5; 9,11;619:17;620:7; 11,14;621:19,23; 622:3;624:4,21; 625:11,17;626:4,12, 21,22;627:4,9,12,15, 18,21,23,25;628:1, 23;631:1,4,11,16,21, 25;632:3;633:11; 634:5,22;635:3,15, 20;638:1;639:2,3,13, 17,19;640:1,4,7,10, 11;642:7,11,13,16; 643:5,7,14,21,24; 644:1,18,24;646:19, 20,21;647:14;648:5, 10,12;649:3,18; 650:10;651:1;654:20	first (8) 567:2,3;589:7; 591:4,6;592:13; 596:18;636:5	FRANK (148) 543:15;544:6,8,17; 545:1,11,16;546:12, 14;547:12,14,25; 548:4,7,24;549:4,6, 13,15,20;550:2,8,10; 551:15;552:10,12,15, 23;553:1,3,12,15,22; 554:5,9;555:13; 557:17,21;558:4,9; 559:4;561:20;562:1, 7,10,17,23,25;563:2, 4,6,9,16,20,23;564:1, 3,14;565:19,20; 566:20,21;570:19,20; 571:12,13;575:15,19, 21;576:13;577:4,9, 11,22;579:1;580:11; 581:16,17;582:6,9; 584:4,9,22;585:21, 23;587:3,7,22;588:7, 14,15;590:10,15; 591:10,15,18;592:15, 19,22,24;593:7,8; 594:13,20,23;595:5, 10;605:1,3;614:1; 615:5;616:11; 620:25;621:10; 622:1,6,12,22;623:1, 12,18,21;624:18; 626:2,8,19,25; 628:19;631:13; 633:14,16,24;634:24; 638:25;639:15; 640:6;642:25;643:2, 4,13,16;644:11,22; 647:22,25;649:9; 652:9;654:22
entitle (1) 562:15	existed (1) 552:17		five (5) 571:10;585:5,6; 589:6;644:12	
entrance (2) 589:24;590:2	existing (1) 548:24		floor (13) 557:4,5,10,10; 591:4,6;595:22,24; 596:2,5;600:14; 604:7;642:20	
Entry (1) 638:7	expenditure (2) 619:23;624:16		floors (1) 591:19	
EPO (1) 578:11	expenditures (6) 619:20;620:16,17, 18;621:8,21		follow (1) 552:10	
equipment (6) 621:24;622:6,13, 20;623:24;624:5	expenses (4) 619:4;620:21,22, 23		following (2) 544:20;602:9	
Erica (7) 626:1,11;631:6,10; 636:24;647:16,17	explain (2) 629:17;649:19		follows (1) 554:3	
Erica's (1) 631:6	extended (1) 587:11		follow-up (3) 572:9;611:23; 646:20	
Erin (1) 543:5	extends (1) 546:8		force (1) 565:11	
error (1) 612:11	extensive (2) 561:8,9		form (41) 564:7,10,15,23,24; 568:3;572:10; 628:19,19;629:7,10, 14,21;632:5,8,11,18; 634:11;635:7; 636:17;638:24,25; 639:10,12;640:13; 644:2,7,8,15,20,25; 645:5,6,15,18;646:3; 647:9,21;649:13; 651:5;652:1	
establish (2) 592:23;644:24	extent (2) 543:9;621:7		formal (1) 601:14	
estimate (2) 556:22,24	extreme (1) 556:1		formerly (1) 597:5	
eventually (1) 592:10	F	few (4) 591:8;597:15,16, 19	forms (12) 544:9;591:25; 592:19,21;593:2,4; 594:25;617:14; 632:13,25;638:22; 639:4	frankly (2) 583:5;598:9
everybody (2) 649:17;654:12	facilities (12) 555:2;559:17; 570:9;580:16,23; 583:4;593:14; 601:17;612:4; 617:11;618:23; 624:17	field (1) 570:6	for-profit-corporation (1) 624:7	Friday (3) 593:21,22;594:2
everybody's (1) 550:4	fact (4) 548:21;561:8,15; 590:4	figure (1) 644:6	forth (3) 546:16;567:25; 623:10	full (1) 554:10
evidence (11) 543:14;544:4; 545:3,18,23;551:14, 17;553:18;563:11; 634:1;635:1	facility (16) 544:21;556:1,8; 558:1,2;559:18; 588:16,18;611:12; 613:4,7;619:7; 621:25;625:2;639:5, 6	file (9) 585:15;595:15; 612:20;618:14,14,16; 624:7;635:4;647:21	foundation (1)	function (1)
exactly (2) 545:13;654:13	Fagan (4) 616:1;625:19,22; 654:1	filed (5) 548:12;618:1,12; 623:7,7		
exam (2) 589:6,11	Fair (4) 614:20;626:21; 631:4;639:2	files (3) 544:8;585:7; 612:19		
EXAMINATION (6) 554:8;563:8; 574:12;584:8; 594:22;633:15	fact (4) 548:21;561:8,15; 590:4	fill (6) 613:13;637:13; 640:14;645:14; 649:22;651:4		
examined (1) 554:3	Filled (2) 641:12;645:14	filled (2) 641:12;645:14		
example (5) 546:20;553:8; 555:24;586:21;602:1	Filling (1) 564:11	filling (1) 564:11		
Except (2) 581:25;622:18	familiar (5) 582:13;637:11;	final (1) 598:18		
exception (1) 623:4		financial (3)		

584:2 functions (2) 555:1;558:21 further (6) 565:22;594:13; 636:10;641:8;651:1; 654:20	grids (2) 569:13;603:4 grounds (2) 614:1;644:11 group (2) 547:25;577:8 Grunberger (3) 571:3,17;609:22 Guardian (1) 617:7 guards (1) 544:23 guess (9) 581:13;591:5; 593:13;608:9; 616:12;630:24; 632:7;646:20;652:21 Gwynne (1) 627:9	548:1,6,9,15,18; 549:2,5,7,11,17,19, 22;550:3,9,11;551:3, 6,16,19,22;552:9,11, 14,21,25;553:2,5,14, 17,20,23;554:4,7,17; 555:8,11;557:16,20, 23,25;558:5,8;559:1, 3;561:7,18,23;562:2, 9,11,18,24;563:1,3,5, 17,21,25;564:10,13; 565:15,17;570:18; 571:7;575:13,16; 576:23;577:1,7,10, 17,20;578:9,14,17, 20,23,25;580:6; 581:5,10,12;582:4,8; 584:5,7;585:18; 587:20;588:6,8; 590:8,12,14;591:1,3, 7,9,14,17;592:9,16, 21;593:6;594:14,16, 19,21;595:3,7,9,18; 596:8,11,13,16,19, 21;599:1,18,21,23; 600:2,7,10;602:1,4,6, 17,20,22,24;603:2; 605:2,7,12;606:14, 17,19;608:7,9; 609:10,16;610:13,18; 611:14,16,19,24; 614:2,18,23,25; 615:4;618:3,6,8; 619:12,15;620:3,5,9; 621:4,19;622:2,9,16, 23,25;623:3,5,15,20, 22,24;624:2,20,24; 625:6,10,13,15; 626:3,6,9,20;627:2,5, 8,20,22;628:21; 630:24;631:2,5,7,9, 12,14,18;633:13,25; 634:23,25;635:13,17, 19;637:19,22,25; 639:11,25;640:3,8; 642:5,10,14;643:6,9, 11,15,17,19,23; 644:13,17,23;645:1, 8,11,13,17,20,23,25; 646:2,6,9,11,13,16, 18;647:11,13,24; 648:1,9,11,22,25; 649:2,11,16,19,21, 25;650:3,5,7,9;651:2, 7,10,14,17,21,24; 652:3,7,11,16,20; 653:3,6,13,16,18,21; 654:1,4,7,10,12,14, 16,19,21,23;655:1,2	609:19;610:10,11,17 help (5) 555:7;575:2,2; 652:25;653:10 helpful (2) 545:8;599:7 high (3) 578:12,17;616:7 Hinkston (2) 615:7,21 hire (13) 566:12;600:5; 601:3;628:5,6; 629:18;634:9;635:7; 636:17;637:9;639:1, 22;640:13 hired (10) 607:21;613:22; 614:19,22;629:24; 638:23;639:5; 640:16,17;642:24 hires (3) 568:6;601:3; 632:16 hiring (5) 586:10;598:12,16; 637:6;642:22 histories (1) 574:10 history (1) 620:12 hit (1) 580:7 hitting (1) 580:9 hmm (2) 572:14;644:21 hold (1) 608:1 holds (1) 608:5 Homes (1) 547:22 hope (1) 636:23 Hospital (49) 544:15,19;546:17, 20;547:13,20,23; 548:14,23,25;549:10, 11,16;551:25;552:1, 3,7;555:23;556:7,10, 11,23;557:2,12; 558:13,16,16;561:10; 570:3,23;572:4,4; 573:13;578:2; 583:12,16,23;587:15; 588:18;592:5;594:7, 11;604:8;606:6; 617:18,23;636:8; 641:22;650:13 Hospitals (1) 547:22 hospital's (1)	557:6 hours (5) 567:5;593:15,23; 594:1,2 housekeeping (1) 543:11 HR (17) 554:25;596:14,18, 20,21;604:11;615:7, 11;624:22;625:24; 629:8;630:15,18; 635:9;636:11,19; 638:19 Human (14) 554:20,21;557:6; 558:20;570:6; 603:21;606:5,14; 608:25;624:18; 636:16;637:8;638:6; 647:17 hyperbaric (2) 585:3;587:18 hypothetical (1) 617:25 hypothetically (1) 622:17
G	H		I	
gap (2) 626:15,20 Geina (10) 596:6,9;597:5,5; 599:17;615:8,10; 627:7;634:17,18 Gene (1) 596:8 General (6) 611:20;612:13,17; 628:22;636:6,6 generalist (5) 596:14,20,21; 615:8,11 generally (9) 568:5;602:7,8; 618:12;621:21; 630:10;632:11; 638:22;639:4 generate (3) 600:4;629:20; 650:8 generated (1) 628:7 generates (2) 599:23;600:3 given (1) 650:23 giving (1) 618:3 goes (11) 585:21;610:11; 612:13;614:2; 617:15,17;621:5; 622:9;629:3;651:11, 11 Gonzalez (2) 641:19,20 Good (5) 549:22;594:15; 600:20;642:13; 648:24 goods (1) 625:8 great (1) 634:7 Greenpoint (6) 577:25;581:6; 609:19,22;610:1,2 greet (2) 572:19;586:1 grid (4) 551:23,24;603:6,7	hall (2) 589:25;596:4 hallway (1) 589:22 hand (1) 553:24 Handbook (2) 641:3,4 handing (1) 627:9 handled (1) 611:3 handles (2) 607:24;619:6 handwriting (2) 637:25;638:2 handwritten (2) 564:15;641:14 happen (2) 558:6,7 happens (2) 612:16,16 head (3) 619:14;644:20; 645:19 health (11) 578:5,7,12,13,15; 616:4,9;632:16; 633:2,7,8 Healthcare (4) 578:11,12,19,21 hear (1) 584:18 heard (2) 597:11;654:1 HEARING (315) 543:3,5,16,19; 544:3,7,11,13,25; 545:2,5,8,10,12,14, 17,21;546:1,4,6,13; 547:3,9,13,18,24;	heavy (1) 593:20 Heights (6) 578:1;581:6;	I-9 (1) 544:9 ID (8) 543:12,13;586:4; 591:22,24;592:2,4,25 idea (1) 560:17 identification (2) 570:11;608:14 identified (1) 543:21 identify (4) 563:11;566:22; 567:16;648:3 illnesses (1) 555:25 illustrate (1) 648:7 implemation (2) 573:23,23 inaccuracies (1) 552:18 inappropriate (2) 561:24;621:17 incidents (1) 543:10 include (2) 554:23;579:25 included (2) 544:17;549:16 includes (2) 551:10,12 including (1) 552:18	

inclusive (1) 552:5	interviewing (2) 564:20;565:25	599:7;642:19	544:21	632:23;634:13;
increase (10) 605:17,25;606:21; 607:1,1,2,3,6;647:10, 11	interviews (1) 560:22	K	language (1) 568:13	636:19
independently (1) 572:8	into (18) 543:14,25;545:22; 551:14;552:23; 579:12,13;585:7; 587:15;590:5;612:1; 616:16;628:18,25; 629:1;638:23;639:5; 648:22	Karen (8) 568:21;569:5; 586:7,14,18;598:8, 10,14	large (2) 590:13;591:11	lines (1) 636:5
indicate (2) 567:14;570:21	involved (16) 568:9,16;569:7; 575:6,23;601:9; 602:25;605:24; 606:2,8;607:15,16, 23;619:2;624:10; 637:6	Karla (1) 635:11	Larry (2) 643:23,24	link (1) 640:23
indicated (1) 565:10	involvement (7) 568:11;569:10,12; 588:3,11,11,13	Keep (2) 565:16;595:7	last (4) 567:22;608:22; 613:22,22	list (4) 552:16;577:21; 637:9;638:7
individual (5) 547:1,16;548:19; 574:20;643:2	Irrespective (1) 582:5	Keller (12) 596:6,8,9;597:5,7; 599:17;600:21; 615:8;627:7;634:17, 18,20	later (2) 588:12;592:14	little (3) 636:10;641:8; 652:16
individuals (3) 565:2;567:12; 581:13	Island (2) 619:8,16	Kennedy (7) 553:22,23;554:1, 11;595:22;625:18; 631:22	lawyers (2) 571:6,7	LLP (1) 653:9
info (1) 641:9	issue (3) 561:23;608:14; 623:1	kept (1) 588:1	league (4) 546:17;547:12,22; 548:3	lobby (2) 591:8;596:3
informal (3) 601:18,23,24	issued (4) 547:6,10;601:6,12	Ketner (4) 563:17;567:1; 599:9,10	learned (1) 587:24	located (16) 556:10,11,15,16, 25;557:1,4,7,9,10; 561:1,2;636:15,16; 639:5,6
information (15) 565:13;573:3,8,14; 576:2;586:3,3;600:8; 612:9;621:16;628:8; 630:3;641:9,24; 651:25	issues (2) 621:3;624:19	kind (12) 561:24;573:22; 583:1;620:17; 621:22;632:18; 646:22,22,25;647:8; 648:6,13	learning (1) 580:8	locating (1) 545:9
initial (1) 640:23	J	kinds (3) 605:9;648:7,8	lease (2) 613:20;652:4	locations (6) 577:23;580:9,12, 12;609:19,21
initially (1) 641:4	January (3) 604:23;605:17; 607:3	Kings (29) 554:13,14;555:4,5; 556:14;560:8;561:3, 4;564:5;566:15,23; 567:5,10;568:3,12; 570:10,22;579:19,22, 25;584:10;591:22; 592:25;594:25; 597:17;604:14; 614:15;639:22;654:9	least (1) 552:7	log (1) 584:1
initials (2) 640:19;641:3	Jasmine (1) 635:5	kitchen/restroom (1) 593:13	leave (18) 587:1,8;648:18,18, 23;650:4,11,15,16, 19,21,22,22;651:3,4, 7,19;652:2	long (5) 571:9;587:10; 619:8,16;626:18
injections (1) 574:11	Jean (1) 636:1	knowledge (2) 552:13;592:4	leaving (1) 588:9	longer (1) 602:3
input (3) 573:2;611:21; 612:1	Jennifer (1) 606:9	known (2) 571:4;582:11	left (1) 596:3	look (13) 549:25;550:5; 560:13;579:14; 635:4,11;636:23; 639:25;642:4; 643:22;647:19,20; 651:19
inputting (1) 573:8	Jenny (1) 636:4	knows (1) 627:2	less (1) 614:18	looked (1) 631:8
inserted (2) 591:24;593:2	Joanne (3) 553:22;554:1,11	Kolon (4) 610:6,7,11,17	letter (10) 543:22;566:17,23, 25;568:2,3;599:7,14; 600:6;615:18	looking (4) 569:12;599:4; 640:8;642:2
instead (1) 621:21	job (19) 552:2,6,16,17; 553:15;554:19,24; 560:12,18;563:12,13, 20;564:4;567:9; 569:15;572:6;603:7; 622:16;627:6	Kronos (4) 584:1;611:21; 612:1,19	letters (6) 567:8,17;572:23; 586:5;599:19;601:3	Looks (5) 563:21;564:7,10; 589:5;631:6
insurance (6) 572:14,20;582:12; 586:4;617:20;650:24	JP (1) 570:7	L	level (3) 584:11,12;585:1	Lord (1) 549:9
intending (1) 562:7	July (2) 554:16;567:6	labor (1) 622:14	license (3) 574:6,7;575:4	losing (2) 585:3,4
intention (2) 562:4;592:17	June (2)	laboratory (1)	Liden (1) 610:7	lot (3) 552:16;598:10; 637:4
interested (4) 580:8;605:15,16; 614:18			life (1) 582:12	LPN (3) 572:1;574:5,7
interview (8) 564:24;566:1,4,6; 576:5,7;586:10; 615:16			light (1) 571:23	LPNs (1) 574:5
interviewed (6) 615:2,3,6,7,8,9			limit (1) 621:7	Lucille (7) 603:24,25;615:9, 10;630:17;634:17,18
interviewer (1) 564:16			limited (1) 621:8	lunch (3)
			Linden (7) 577:25;581:6; 609:18,25;610:3,5,12	
			line (8) 567:3;620:25; 623:18,21;630:23;	

550:7;551:4; 593:12 luncheon (1) 550:12	Maria (5) 638:15,16,17,18,18 Marielle (1) 638:16 mark (1) 631:19 marked (10) 543:18,20;544:12, 14;551:5,21;563:10; 627:14;631:20;634:4 market (5) 569:13,16;603:15, 17;616:17 Married (2) 597:8,9 matter (3) 561:10;611:3; 655:3 matters (2) 548:12;624:22 may (25) 543:10;546:17; 547:6,15;553:7,8; 555:1,3;559:15,17; 562:23;570:9; 572:24;573:6,25; 583:3;586:4;587:10, 11;593:19;607:11; 615:2;616:1;627:18; 650:21 maybe (1) 574:15 McCullough (3) 636:24;637:2,6 mean (12) 548:10,11;559:14; 572:1;574:5;575:16, 18;585:19;596:14; 626:9;643:3;647:25 meaning (1) 584:19 means (1) 560:3 meant (2) 575:19;588:13 medical (4) 583:9;621:24; 648:18,20 medication (1) 572:9 Melissa (3) 596:6;608:19,20 member (2) 546:17;547:23 members (1) 581:20 memorandum (1) 551:8 memory (1) 642:13 mention (1) 623:13 mentioned (6)	574:5;581:6;603:4, 15,15;625:19 Methodist (57) 544:15,19;546:20; 547:6,20,23;548:14, 25;549:10,11; 551:25;552:1,3,14, 15;556:7,10,11; 561:2,4,10;562:13; 570:3,16;578:2,13, 14;583:12;592:5; 594:7,10;596:12,15, 22,25;600:24,25; 604:8;606:6,12,16; 608:25;612:15; 615:14;616:20; 617:5,8,24;618:17; 619:3,3;636:8; 638:20,21;641:22; 650:13;654:15 Methodist's (1) 562:14 Michael (1) 625:22 microwave (1) 593:14 mid (1) 642:24 middle (5) 567:25;597:18; 613:22;638:4;642:24 might (6) 553:10;640:1; 645:3,22;646:6; 650:5 mile (1) 556:24 mind (1) 643:4 mine (2) 599:5;638:3 Minor (3) 558:7,10;571:23 minute (2) 545:25;625:12 mischaracterize (1) 603:16 missed (1) 612:2 mixed (2) 548:21;549:3 MOA (1) 546:8 moment (2) 609:9;643:5 Monday (3) 593:21,22;594:2 more (17) 553:9;558:12; 580:8;588:8,9; 590:17,18;593:20; 594:20;598:9,10; 602:15;605:14;	611:10;614:19; 624:14;628:21 Morgan (1) 570:7 most (3) 546:8;598:7; 604:22 motion (2) 562:3,10 move (4) 553:20;561:20; 585:20;593:6 moving (3) 543:14,25;562:1 MSO (133) 543:19;552:12; 554:13,14;555:4,5; 557:14;558:2,6,7,15, 18,20,22;560:8; 561:2,10;562:13; 563:11,12;564:5; 565:22;566:15,23; 567:5,10;568:3,12; 569:7,10,22;570:2, 10;572:4;574:1,3; 579:19,22,25;580:8, 14,25;581:7,8,12,13, 18;582:15,19;583:1; 584:10;587:15; 588:3,10,20,23,23; 591:22;592:25; 593:9;594:6,25; 596:11,14,24;597:2, 17;600:5;601:3; 604:14;606:23,25; 607:7,12,21,22,23; 608:1,2,4,14;610:25; 612:14;613:12,12,17, 21;614:15;615:22; 616:9,16,23;617:20; 618:19,22;619:1,4, 18,21,23;620:13,15, 17;621:9,14,24; 622:11;623:24; 624:7;625:19,20,25; 628:5,20;638:20; 639:22;650:22,24; 652:4,4,8,13,13,20, 20,25;653:3,10,16, 19,24;654:2,9 MSO-20a (1) 635:4 MSO-8 (2) 543:25;544:3 MSO-8a (1) 543:21 MSO-8a-o (2) 543:18;544:5 MSO-8d (1) 635:11 MSO-9 (7) 544:12,13;545:22, 24;546:5,21;548:24	MSO's (2) 562:19;611:6 Much (4) 590:17,18;606:21; 654:23 multi-employer (2) 547:25;548:2 multiple (1) 589:17 must (1) 633:4
N				
name (7) 554:10;565:11; 597:8,9;608:22; 615:24;619:12 named (1) 625:19 names (1) 559:5 necessarily (1) 645:24 necessary (2) 559:16;625:8 need (11) 570:9;573:25; 585:19;592:10,17; 594:16;605:5;616:7; 621:8;649:6;654:16 needs (3) 546:10;570:9; 625:2 negotiated (3) 547:16;607:14,16 neither (1) 561:10 nervous (1) 582:25 New (63) 544:14,19,21; 547:6,20,22;548:13; 551:25;552:3,14,15; 556:7,10,11,20; 561:2,4,10;562:13, 13;568:5;570:3,16; 578:13,14;592:5; 594:6,10;596:12,15, 22,25;600:5,24,25; 601:3;604:8;606:12, 16;608:25;609:6; 612:15;615:14; 616:20;617:5,8,24; 628:5,6;629:18,24; 632:16;634:9;635:7; 636:17;637:5,9; 638:20,21;639:22; 640:13;650:13; 654:15 next (6) 558:1;566:7; 572:10;588:16;				

638:6;644:14 non- (1) 548:12 None (2) 571:8;621:2 nor (1) 561:10 normally (3) 632:25;641:24; 644:20 note (1) 552:18 noted (2) 623:20,22 notes (4) 564:22,23,25; 616:8 nothing's (1) 629:1 notice (1) 543:8 noticed (1) 592:19 notified (1) 607:3 Notwithstanding (1) 549:13 November (1) 635:21 number (8) 544:16;591:22,24; 592:2,5,25;593:2; 595:25 numbers (1) 592:7 nurse (5) 584:11;585:1; 586:8;633:21,22 nurses (5) 546:22;549:20; 574:24;575:4;576:16 NYM (1) 636:11	548:19 occur (2) 583:3,4 October (2) 545:11;551:24 off (18) 545:12,25;546:1,1; 550:6,11;560:5; 584:4,5;612:2; 619:14;625:11,13; 643:13,14,16,17; 655:1 offer (11) 566:13,23;567:4,8, 9,17;568:2;599:7; 600:6;601:3;615:18 offered (2) 544:13;551:6 offering (3) 546:6;551:23; 552:6 offers (3) 631:11;633:11; 634:22 office (53) 555:15,20,21,22, 24;556:25;557:1; 558:22,24,25;559:8, 10,11,19;566:10; 569:3,5,17;573:2; 576:18;579:13; 584:14,19,20;585:3; 586:6,19;589:10; 593:15,16,23;594:6; 595:22;596:4;598:5, 21;600:14;607:6; 608:5;620:19,19,19; 624:15;625:1,3,6; 642:20;647:1; 650:17,19;651:12,14; 653:11 OFFICER (316) 543:3,5,16,19; 544:3,7,11,13,25; 545:2,5,10,12,14,17, 21;546:1,4,6,13; 547:3,9,13,18,24; 548:1,6,9,15,18; 549:2,5,7,11,17,19, 22;550:3,9,11;551:3, 6,16,19,22;552:9,11, 14,21,25;553:2,5,14, 17,20,23;554:4,7; 555:8,11;557:16,20, 23,25;558:5,8;559:1, 3;561:7,18,23;562:2, 9,11,18,24;563:1,3,5, 17,21,25;564:10,13; 565:15,17;570:18; 571:7;575:13,16; 576:23;577:1,7,10, 17,20;578:9,14,17, 20,23,25;580:6;	581:5,10,12;582:4,8; 584:5,7;585:18; 587:20;588:6,8; 590:8,12,14;591:1,3, 7,9,14,17;592:9,16, 21;593:6;594:14,16, 19,21;595:3,7,9,18; 596:8,11,13,16,19, 21;599:1,18,21,23; 600:2,7,10;602:1,4,6, 17,20,22,24;603:2; 605:2,7,12;606:14, 17,19;608:2,3,7,9; 609:10,16;610:13,18; 611:14,16,19,24; 614:2,18,24,25; 615:4,24;618:3,6,8; 619:12,15;620:3,5,9; 621:4,19;622:2,9,16, 24,25;623:3,5,15,20, 22,24;624:2,20,24; 625:6,10,13,15,20; 626:3,6,9,20;627:2,5, 8,20,22;628:21; 630:24;631:2,5,7,9, 12,14,18;633:13,25; 634:23,25;635:13,17, 19;637:19,22,25; 639:11,25;640:3,8; 642:5,10,14;643:6,9, 11,15,17,19,23; 644:13,17,23;645:1, 8,11,13,17,20,23,25; 646:2,6,9,11,13,16, 18;647:11,13,24; 648:1,9,11,22,25; 649:2,11,16,19,21, 25;650:3,5,7,9;651:2, 7,10,14,17,21,24; 652:3,7,11,16,20; 653:3,6,13,16,18,21; 654:1,4,7,10,12,14, 16,19,21,23;655:1 officers (2) 615:22;654:2 officer's (1) 545:8 offices (13) 555:6;556:2,4; 557:14;558:10; 559:20;569:20,23; 574:18;581:18,21; 582:1,5 off-sites (3) 574:16,17,19 often (5) 597:13,24;598:5; 609:23;610:12 old (1) 646:2 once (5) 550:4;610:16,21, 21,21	one (38) 547:4,10,12;549:8; 559:20;560:10; 561:20;562:24; 563:1;576:18; 577:25;578:1,18,18; 579:20;594:20; 596:18;599:4; 602:19;609:9,12,14; 613:2;624:15,16; 630:10;634:6;637:4; 639:21;640:1,6; 641:12;642:5,10; 645:2,8;647:1;648:2 One- (1) 627:12 ones (1) 613:10 One's (1) 577:25 one-story (1) 590:8 online (9) 560:11,11,24; 561:1,16;563:13; 640:14,15;641:12 only (5) 546:15,24;562:7; 580:20;653:22 ooph (1) 603:20 op (1) 559:11 open (3) 594:4;652:24,24 operate (2) 555:15;653:9 operating (4) 557:14,18,19; 558:2 operations (1) 607:24 opportunity (1) 588:13 options (1) 616:5 order (5) 635:14,15,16; 643:7;653:1 organization (3) 546:23;555:5; 652:14 original (1) 564:24 Ostrowsky (2) 626:11;631:10 others (1) 610:5 out (24) 545:7;564:8,11; 566:17;567:8; 572:19;587:6,10,11; 599:5;612:3;613:13;	628:16;629:14; 630:1;632:7;637:13; 640:14;641:12; 644:6;649:22;651:4; 652:25;653:9 over (8) 560:20;575:13,14; 580:25;598:5;626:5; 646:4;651:19 overlap (1) 543:10 overnight (1) 594:4 overruled (4) 614:2;622:2; 623:15;626:9 overruling (2) 622:11;624:24 oversee (3) 580:25;581:24; 612:7 own (11) 571:18;590:2; 591:22;592:25; 609:3,7,12;620:22; 621:24;623:24;625:7 owns (4) 622:6,13,20;652:4 oxygen (1) 587:24
O				P
object (8) 553:12;561:14; 620:25;621:11; 644:11,22;649:9; 652:9 objection (33) 543:14,15,25; 544:2;545:3,4,18; 548:7;551:14,15; 562:13;605:1;614:1; 622:1;623:16,18,20, 22;624:18,25;626:2, 19,25;628:19;631:12, 13;633:13,24;634:23, 24;638:25;642:25; 647:22 obtained (1)				Pace (2) 638:15,18 package (2) 650:22,22 packages (2) 578:7,10 packet (6) 563:19;635:7; 636:17;641:8;642:9, 11 page (2) 636:10;638:6 paid (2) 567:17;613:11 paper's (1) 631:8 paperwork (1) 595:16 par (1) 588:1 paragraph (3) 567:2,22,25 Park (24) 556:16,16,23; 559:21;561:12; 569:20,25;570:2; 571:22,24;574:14; 588:21;589:12; 594:10;597:14; 611:12;613:4,18;

617:11;638:23,25; 639:6,7;652:5 part (6) 552:7;581:8; 607:23;619:2; 637:16;653:7 participate (1) 579:23 particular (1) 614:16 particulars (1) 568:15 partner (2) 554:20,22 part-time (1) 544:18 party (2) 619:8,13 pass (2) 650:19,21 passed (1) 640:5 patient (18) 555:16;560:3; 572:8,9;573:2,14; 574:9;575:16,18,22, 23,24;576:10;583:9, 19,22;585:4;586:2 patients (12) 555:17;556:5; 572:19,22,23,25; 573:12;576:5,7; 586:1;588:1;619:6 Pause (5) 562:22;563:7; 566:19;584:3;643:12 pay (2) 566:24;607:12 paycheck (1) 654:8 paychecks (6) 611:8,11,21; 612:18,21,24 paying (1) 649:17 payroll (6) 611:16,18;629:20, 23;651:22,24 pays (3) 613:12;652:4,8 PC (2) 653:12,14 pediatric (1) 589:15 people (9) 564:4,11;565:5; 567:17;600:14; 616:17;633:5; 650:15;653:22 per (5) 576:25,25;577:15, 17,19 percent (5)	552:5;604:25; 606:22;607:1;619:11 perfectly (1) 618:9 perform (2) 559:12;626:23 performance (1) 571:21 performed (2) 571:24;583:5 performing (2) 625:24;627:5 performs (1) 572:3 period (1) 587:11 person (12) 559:15;587:10,11; 603:21;614:3,16; 625:25;629:24; 645:10,14;648:18; 653:22 personal (2) 620:9,11 personnel (2) 543:20;635:4 person's (2) 587:5;648:25 pertinent (1) 564:22 petition (3) 622:23;623:2,7 petitioned (1) 543:23 Petitioner (6) 543:20,25;561:9; 623:5,9;648:1 Petitioner's (3) 551:6;561:16; 562:15 petitions (3) 548:12;623:12,14 pharmacists (1) 544:23 phone (1) 598:6 photographs (1) 543:13 physical (1) 632:5 Physically (3) 597:14;608:15; 634:20 physicals (1) 633:5 physician (35) 549:15;555:6,10, 11,14,15;558:18; 567:5;569:17,18,22; 571:1,25;572:1,3,6; 574:18;575:8,9; 576:11,12,14,15; 577:2,5,12;581:1,3;	618:20;622:12,13; 633:17,21;642:22,23 physicians (14) 555:9,15,18;566:3; 569:19;571:14; 572:7;581:18;582:2; 609:6,11,12,13,14 physician's (1) 555:20 picture (1) 570:14 place (2) 603:12;607:21 places (1) 647:1 plan (14) 578:12,13,15; 579:16,18,19,23; 616:21,22,22,25; 617:6,22;640:22 plans (2) 616:9,17 Plaza (1) 594:10 Please (7) 550:7;554:4,10; 563:11;609:9; 623:23;643:5 pleased (1) 567:4 plugs (1) 600:8 pm (3) 550:12;551:2; 655:2 point (3) 560:22;562:5; 637:19 pointing (1) 649:25 policies (1) 641:6 policy (1) 641:1 policyholder (2) 616:9,23 portion (3) 561:3,5;621:4 POS (1) 578:12 position (21) 548:11,16,20; 549:7;560:11,15,17; 562:14;566:13; 567:4;599:25; 600:13,15,22;603:8; 604:10;608:1; 614:12;623:9,10; 632:20 possible (3) 560:3;566:11; 635:16 possibly (5)	566:3,5;609:24; 610:16;611:5 practice (51) 554:5;555:14,15, 20;556:15,16; 558:19;559:7;560:9; 566:1,3;567:16; 568:18,20,23;569:1, 19;570:3;571:2,4; 573:18;577:8;578:3, 6;580:2,20,21;581:9, 20,23;582:5;584:11, 25;585:13,16;586:16, 19;587:16;589:1,15, 24;594:3,3;606:22, 24;621:15,15;622:11, 12,13;652:25 practices (18) 555:7,10,11; 569:17;581:1,1,2,3,7, 24;582:5;589:12; 591:11;594:4,5; 603:18;618:20; 649:10 practitioner (5) 571:2;632:23; 633:2,17,21 practitioners (1) 574:22 Practitioner's (1) 633:17 predates (2) 551:11;628:20 pre-dates (1) 644:12 predecessor (3) 603:12;626:7,10 pre-employment (1) 632:5 prepare (6) 599:14;611:8,11; 612:17;630:11;632:8 prepared (3) 550:2;599:18; 632:13 prepares (1) 611:20 preparing (2) 624:10;651:24 prescribe (1) 572:8 presence (1) 628:20 present (2) 554:17;597:14 president (3) 606:5,11,14 pressure (1) 576:1 pretty (1) 573:10 previous (2) 544:15;551:12	previously (1) 546:25 primarily (1) 616:2 print (5) 612:22;629:10,14, 21;630:1 printed (2) 564:7;628:16 prior (6) 570:7;585:10; 603:12;606:23; 607:20,21 private (4) 581:1,2,18;603:18 probably (2) 584:15;640:1 procedure (1) 575:2 procedures (6) 558:12,12;571:21, 23,24;572:3 proceeding (2) 561:8;623:9 process (6) 564:20;566:6; 568:9,11;605:16; 617:14 processed (1) 565:22 processes (1) 611:21 processing (3) 570:8,9;595:16 produced (2) 543:19;561:11 produces (1) 612:20 product (1) 573:24 professional (8) 544:14,18;548:13, 13,25;549:4;552:22; 570:5 program (2) 628:12,14 pronounce (2) 636:2,24 proper (1) 576:2 properly (1) 588:2 Prospect (23) 556:16,23;559:21; 561:12;569:20,25; 570:2;571:21,24; 574:14;588:20; 589:12;594:9; 597:13;611:12; 613:4,18;617:11; 638:23,25;639:6,7; 652:5 provide (9)
---	--	---	---	---

555:16;558:15,18; 562:6;567:19; 573:20,22,24;607:12 provided (5) 546:14;552:1; 578:5;583:1;619:1 provides (9) 555:6,8;558:20; 573:23;581:12; 583:11;607:7; 610:22;618:19 providing (2) 560:3;562:14 psychology's (1) 652:25 punched (1) 612:3 punches (1) 612:2 purchase (1) 625:8 purchased (2) 620:19;625:2 purchasing (2) 596:7,24 purpose (3) 629:10,12;632:15 pursuant (1) 619:1 put (9) 552:23;561:11; 579:12,13;585:7,15; 629:20;640:19; 648:18 puts (1) 579:10 Putting (1) 583:22	636:1 rate (2) 566:24;567:17 rates (1) 569:15 R-case (2) 621:1,5 reach (1) 652:25 read (3) 567:3;640:23,25 reading (1) 640:19 ready (1) 595:18 recall (1) 577:24 receive (6) 545:22;553:6,11; 574:1;607:22;615:18 received (18) 543:17;544:4,5; 545:3,18,24;546:5; 551:17,18;553:18,19; 561:17;631:14,15; 633:25;634:2,25; 635:2 receiving (1) 551:14 recent (2) 546:8;604:22 reception (1) 589:7 receptionist (2) 596:6;608:17 recess (6) 546:3;550:12; 584:6;625:14; 643:10,18 recognize (13) 628:2;630:18,22; 631:22;633:1;634:7, 15;635:9;636:19; 638:11;647:8,15; 648:13 recognized (1) 547:1 record (53) 543:3,4,6,7,8,9,10; 544:1;545:25;546:2, 4,5;549:15;550:6,10, 11;551:3;552:4,24; 554:6,10;560:13; 561:11,20,25;562:8; 563:2,6;570:18; 580:13,13;583:9,25; 584:1,4,5,7;585:8,22; 587:3;621:10; 622:22;623:11; 625:12,13,15;627:19; 643:11,13,16,17,19; 655:1 records (1)	585:15 recreational (1) 544:22 recruit (1) 560:8 recruiting (1) 554:23 recruitment (2) 558:20;560:6 redact (1) 592:17 redacted (3) 592:7,11,16 reference (3) 561:15;562:5,7 referenced (1) 626:7 referred (2) 559:5;569:16 referring (3) 569:16;581:3; 582:1 refers (1) 642:22 reflects (1) 545:21 regarding (1) 583:2 regardless (2) 547:3;549:8 registered (7) 549:20;574:24; 575:4;576:16; 584:11;585:1;586:8 registration (4) 583:19,19,22; 632:5 regular (1) 544:18 reimburse (2) 619:3,4 reimbursement (2) 617:12,14 related (4) 555:1,25;622:7; 624:18 relations (1) 622:14 relationship (1) 652:21 Relax (1) 582:23 relevance (3) 550:8;605:1;614:1 relevant (5) 621:9,12,13;622:7, 21 remain (1) 547:1 renew (1) 562:10 rent (1) 652:8	Repeat (1) 623:23 rephrase (2) 611:13;613:2 replacement (1) 559:16 report (3) 615:25;616:2; 654:5 reporting (1) 624:12 reports (1) 628:16 Reportsmith (6) 628:7,10,18,25; 629:1,6 represent (3) 546:22;547:15; 552:2 representation (4) 621:2,12,17;622:8 represented (2) 546:23;552:3 representing (2) 547:10;640:25 represents (1) 546:18 request (5) 587:11,13;613:13; 650:15,16 requested (2) 561:17;586:5 requests (4) 586:21,23,24; 587:1 require (3) 646:25;647:5; 648:10 required (1) 646:5 requirements (1) 593:9 requires (2) 646:22,23 reserve (1) 581:3 reserves (1) 552:5 residential (4) 591:1,2,17,19 resource (2) 557:6;624:19 resources (12) 554:20,21;558:21; 570:6;603:21;606:5, 15;608:25;636:16; 637:9;638:7;647:17 respect (5) 561:12;598:8; 604:12;613:17;623:6 Respondent's (1) 562:18 Responds (1)	560:5 response (1) 653:25 responsibilities (3) 559:10;580:20; 586:18 responsibility (1) 588:24 responsible (9) 559:25;560:6; 568:13,22,25;580:25; 586:12;587:24,25 returns (2) 624:8,10 review (4) 560:14,21;562:15; 641:24 reviewed (1) 641:5 Reviewing (2) 569:14;612:3 reviews (1) 642:3 revising (1) 569:12 right (53) 543:4;545:2,13; 548:1,1,2,9,15; 549:10,12,19,22; 550:3;551:4,19,20; 553:2,5,17,20,23; 558:4;561:22; 564:13;568:5; 577:12;591:7; 594:16,19;605:8; 609:18;622:25; 624:14,24;625:18; 627:18,19,25;634:11, 25;635:23;636:2,23, 24,25;637:22;640:8; 646:18;648:11; 652:3,13;654:3,16 rights (1) 552:5 Rings (1) 549:9 Risk (6) 582:10,11,12,22; 610:22,25 RN (1) 572:2 RNs (4) 546:22;577:3,5,14 room (6) 557:18,19;575:2; 589:7;595:25;613:18 rooms (7) 557:14;558:3; 574:12;575:24; 589:5,6,11 rotated (1) 587:15 rotates (1)
Q				
QCR (2) 621:12,14 qualified (1) 560:18 question's (1) 628:21 quick (1) 635:16 quickly (1) 543:11 quite (1) 584:19 quote (1) 549:9				
R				
raise (2) 553:24;645:8 ramp (1) 591:5 Ranjan (1)				

577:23 Rubin (4) 596:6,13,19,20 rule (1) 549:9 ruling (2) 562:3,20 run (3) 555:7;653:1,10 running (1) 559:11	584:5,7;585:18; 587:20;588:6,8; 590:8,12,14;591:1,3, 7,9,14,17;592:9,16, 21;593:6;594:14,16, 19,21;595:3,7,9,18; 596:8,11,13,16,19, 21;599:1,18,21,23; 600:2,7,10;602:1,4,6, 17,20,22,24;603:2; 605:2,7,12;606:14, 17,19;608:7,9; 609:10,16;610:13,18; 611:14,16,19,24; 614:2,18,25;615:4; 618:3,6,8;619:12,15; 620:3,5,9;621:4,19; 622:2,9,16,25;623:3, 15,20,22,24;624:2, 20,24;625:6,10,13, 15;626:3,6,9,20; 627:2,5,8,20,22; 628:21;630:24; 631:2,5,7,9,12,14,18; 633:13,25;634:23,25; 635:13,17,19;637:19, 22,25;639:11,25; 640:3,8;642:5,10,14; 643:6,9,11,15,17,19, 23;644:13,17,23; 645:1,8,11,13,17,20, 23,25;646:2,6,9,11, 13,16,18;647:11,13, 24;648:1,9,11,22,25; 649:2,11,16,19,21, 25;650:3,5,7,9;651:2, 7,10,14,17,21,24; 652:3,7,11,16,20; 653:3,6,13,16,18,21; 654:1,4,7,10,12,14, 16,19,21,23;655:1	seeing (1) 576:2 seek (1) 620:15 seems (1) 546:10 selected (1) 600:5 send (7) 559:17;560:20; 566:17;572:22; 632:16;651:15,19 sends (2) 559:17;601:3 senior (1) 571:1 sense (1) 553:16 sent (1) 633:5 separate (10) 547:1;548:22; 568:17;569:20; 573:18;581:23; 582:1;583:12,23; 617:22 service (3) 551:10;570:8; 579:20 service/maintenance (1) 551:12 services (13) 555:5,6,8;558:15, 18,20;559:12;618:20, 25;619:1;624:5; 625:8;652:14 set (4) 567:25;623:8,10; 642:8 several (3) 560:10;589:11; 606:23 shall (1) 565:11 sheet (1) 647:6 short (1) 620:18 show (8) 552:6;563:10; 595:11;625:18; 627:16;631:17; 634:6;639:25 shown (2) 592:12,12 sic (8) 543:4,6,9;556:22; 573:23;594:10; 622:17;641:21 sick (4) 560:5;587:1,6,8 side (1) 585:21	sides (1) 570:15 sign (14) 565:2,6,8;567:12; 630:13,16;644:20; 645:10,15,18;648:19; 649:7,12;650:5 signature (25) 565:5,12;630:18, 22;631:3;632:21,23, 23;633:1,18;634:13; 635:9;636:19; 638:11,12;641:14,18; 646:23;647:1,5,15, 17;648:3;649:24,24 signatures (5) 565:7;629:13,15; 646:5;648:10 Signed (5) 545:1;630:5,6; 634:15;642:3 significant (1) 621:4 signing (1) 565:24 signs (5) 630:8,11;632:25; 634:15;646:11 similar (1) 569:15 similarly (1) 567:9 single (2) 622:18;623:13 sit (2) 572:16;593:14 sites (1) 602:16 situations (5) 555:1;582:14,21; 583:2,3 slight (1) 544:6 smoothly (1) 559:11 social (3) 544:22;552:18,21 soft (1) 607:17 software (11) 560:11;583:8,11; 600:13,15,19;607:17, 22;628:12;632:18,20 somebody (3) 625:19;633:2; 650:15 Somebody's (1) 629:23 someone (8) 579:10;587:4; 602:3;627:3;649:14, 21,23;652:8 someone's (1)	559:15 sometimes (4) 555:18;569:22; 593:19;598:7 sorry (24) 543:8;555:8; 563:15;577:3,5; 582:24;584:18; 587:4;596:15,16,19; 598:1;605:14;609:6, 25;611:6,10;612:6; 614:23;618:5; 624:21;625:11; 627:18;648:20 Sort (4) 642:18;653:4,8,9 sounds (1) 624:14 Southerland (1) 635:12 space (1) 652:8 speak (6) 598:5,9;602:6; 623:12;639:15; 647:22 SPEAKER (1) 571:9 Speaking (4) 618:12;628:24; 630:10;632:11 speaks (1) 565:17 specialist (1) 650:11 specific (13) 546:9;559:18,19; 573:12;577:7; 602:15;605:14; 611:10;624:14; 628:24,24;644:7; 648:23 specifically (2) 592:12;623:8 specifics (2) 618:3;621:21 spell (2) 604:2;608:22 spoke (2) 607:6;614:3 staff (9) 559:13;560:2,4; 570:1;577:23; 581:12,20;609:12; 653:10 Staffing (1) 559:12 stairs (1) 591:8 stamp (2) 594:25;595:3 standard (4) 564:4;567:16,19;
S				
salaries (5) 569:7,10;603:7; 604:13,15 Salary (14) 555:2;567:16; 569:13;603:4,6; 604:22;605:4,17,17, 24;606:21;646:24, 25;647:11 same (22) 557:16;560:17; 565:11;569:14; 587:2;593:24;595:6; 597:22,22,25;600:19; 611:6;622:1;625:7; 634:9;641:8;642:10, 11;646:4;654:11,11, 12 saving (1) 595:17 savvy (2) 609:13,15 saying (2) 562:19;636:24 scan (1) 636:14 SCHAEFER (308) 543:3,5,16,19; 544:3,7,11,13,25; 545:2,5,10,12,14,17, 21;546:1,4,6,13; 547:3,9,13,18,24; 548:1,6,9,15,18; 549:2,5,7,11,17,19, 22;550:3,9,11;551:3, 6,16,19,22;552:9,11, 14,21,25;553:2,5,14, 17,20,23;554:4,7; 555:8,11;557:16,20, 23,25;558:5,8;559:1, 3;561:18,23;562:2,9, 11,18,24;563:1,3,5, 17,21,25;564:10,13; 565:15,17;570:18; 571:7;575:13,16; 576:23;577:1,7,10, 17,20;578:9,14,17, 20,23,25;580:6; 581:5,10,12;582:4,8;	609:10,16;610:13,18; 611:14,16,19,24; 614:2,18,25;615:4; 618:3,6,8;619:12,15; 620:3,5,9;621:4,19; 622:2,9,16,25;623:3, 15,20,22,24;624:2, 20,24;625:6,10,13, 15;626:3,6,9,20; 627:2,5,8,20,22; 628:21;630:24; 631:2,5,7,9,12,14,18; 633:13,25;634:23,25; 635:13,17,19;637:19, 22,25;639:11,25; 640:3,8;642:5,10,14; 643:6,9,11,15,17,19, 23;644:13,17,23; 645:1,8,11,13,17,20, 23,25;646:2,6,9,11, 13,16,18;647:11,13, 24;648:1,9,11,22,25; 649:2,11,16,19,21, 25;650:3,5,7,9;651:2, 7,10,14,17,21,24; 652:3,7,11,16,20; 653:3,6,13,16,18,21; 654:1,4,7,10,12,14, 16,19,21,23;655:1	schedule (2) 586:24;593:20 scheduled (2) 579:4,5 Schedules (4) 560:4,4,4;579:7 scheduling (1) 588:24 screen (2) 560:16;620:20 seat (1) 554:4 Second (10) 557:5,10;567:22; 584:4;595:24;596:2; 599:5;600:14; 642:20;652:22 section (4) 644:19,19;645:9; 650:1 secured (2) 613:3,6		

568:3 standing (3) 562:12,12;623:18 stands (1) 652:13 start (1) 567:8 started (5) 597:17,18;602:15; 626:16;627:6 state (4) 543:7;554:10; 577:7;593:4 statements (1) 641:25 Status (5) 644:2,25;645:6; 647:21;652:1 steps (1) 602:10 still (6) 547:19;598:25; 626:13;644:15,19; 652:16 stip (1) 551:12 stipulate (3) 548:4;550:2;553:3 Stipulation (6) 546:16,24;551:9, 11;552:20,23 story (1) 590:11 Street (9) 544:20;556:11; 557:1;595:22;597:3; 604:4;633:9,10; 642:20 strike (7) 561:20;562:10; 597:1;611:6,10; 614:9;620:16 striking (1) 561:24 string (1) 642:17 stripe (2) 570:15,21 stuff (1) 627:10 subject (1) 623:8 submission (1) 595:11 submit (6) 612:20;613:15; 614:6,10,14;620:24 subpoenaed (2) 561:9;562:5 suggestion (1) 623:4 Suite (13) 574:14;588:3,16;	589:1,4,8,18,18,25; 590:2,5,5;613:17 suites (1) 591:3 Sultan (1) 571:17 supervisors (1) 544:24 supplies (3) 620:20;625:3,4 supposed (1) 552:2 Sure (25) 544:7;559:12,15, 16;567:4;569:18; 572:20;573:10; 574:9;584:5;588:7; 594:21;599:9;608:6, 10,13;616:1,14; 618:24;619:11; 623:16;640:1;643:6; 652:10,10 surgeries (1) 558:10 surgery (4) 557:12;558:1,6,7 surgical (1) 572:13 sustained (1) 605:8 Suzanne (15) 558:25;559:8; 560:20;566:2; 568:25;569:5; 579:13;586:16,19; 598:8,9,10,11; 602:21;645:19 swipes (1) 612:2 sworn (1) 554:3 system (18) 573:7,7,13,18,20, 25;583:8,10,14,16, 20;584:1;599:24; 600:1;611:21;612:1; 625:7;632:18 systems (4) 573:9;583:23; 641:9,24	talking (11) 560:17;576:19; 577:2,8;582:7; 589:20;590:22; 593:16;601:14; 621:20;651:3 tax (5) 591:22,24;593:4; 624:7,10 tech (3) 585:3;609:13,15 technical (2) 551:10;552:19 technician (1) 587:18 technologists (1) 544:21 telephone (2) 586:2;587:5 telephones (1) 572:12 temperature (1) 575:25 template (7) 599:21;600:2,3,5, 12;601:1;632:19 temporary (5) 587:12;613:3,6,9, 10 tenants (3) 589:17;590:23,25 Ten-story (1) 590:16 terminated (1) 602:14 Terminations (1) 555:2 terms (5) 546:24;547:21; 553:13;588:10; 653:23 testified (17) 554:3;561:21; 598:11;601:9;607:7, 17;609:3,18;610:22; 615:10;616:4; 618:19;624:21; 626:3;644:14; 649:13;650:16 testifies (1) 562:15 testify (2) 585:18;626:25 testimony (2) 543:9;651:11 therapists (1) 544:22 thinking (2) 584:16;601:13 third (4) 557:10;604:7; 619:8,12 Though (3)	605:12;611:20; 621:20 thought (1) 627:7 Three (5) 557:3,3,3;578:20; 581:5 three- (1) 627:12 times (4) 559:7;597:15,16, 19 timestamp (1) 584:2 title (4) 554:19;567:10; 569:3;606:10 titles (1) 553:15 Today (5) 543:5;585:10; 649:14,21,23 told (1) 627:3 took (1) 605:17 top (3) 570:16;619:14; 639:22 topic (1) 561:21 totally (1) 621:17 tough (1) 631:25 Tower (1) 635:5 tracking (4) 560:11;600:1,13, 20 training (11) 573:20,22,24; 574:2;582:14,17; 583:1,5;607:7,12; 610:23 trauma (1) 583:3 traumas (1) 556:2 Travel (3) 620:21,22,22 treated (1) 588:2 treatment (2) 572:9,10 trouble (1) 571:11 true (2) 598:8;611:6 try (6) 545:14,18;616:16, 17;618:25;621:21 trying (4)	592:22;644:6,24; 648:7 Tuesday (1) 635:21 tuition (1) 617:11 turn (3) 637:15,17;638:6 Twenty-story (1) 590:20 twice (4) 583:6;609:24; 610:21,21 two (26) 548:12;552:17; 555:1;561:21;573:9; 574:1;576:15,17,18, 23,24,25;577:6,12, 14;580:12;585:2,4, 24;588:5;601:17; 602:16;612:19; 617:11;623:8;654:5 two- (1) 627:12 type (9) 558:18;560:17; 586:5;601:14;611:3; 644:8;646:7,13; 648:23 typed (1) 565:11
U				
U-29 (2) 543:12,17 U-30a-d (2) 551:5,18 U-31 (2) 551:21;553:19 U-32 (2) 627:14;631:15 U-33 (2) 631:20;634:2 U-34 (2) 634:4;635:2 ultimately (1) 553:10 Um (1) 630:9 Um-hum (28) 559:6;563:18; 569:2;572:2;577:13; 578:24;589:3; 597:10;599:6,13; 606:13;609:10,20; 610:24;618:21; 625:21;630:7; 634:12,19;635:23; 636:3;642:18,21; 643:25;646:17; 648:16;651:13; 652:15				

unaware (2) 607:13;653:20	20;581:8,18,20,23; 583:8,20;584:11; 585:16;586:16; 589:1;593:23;594:3, 9;597:21;601:7; 604:12,20;605:20; 607:8;609:3,6,19; 611:11;612:25; 613:3;617:10;619:6, 9;621:15,24;623:25; 627:19;639:5;647:3; 653:12,14,19	633:15 Voluntary (1) 547:22	641:18 WILCOX (30) 544:2;545:4,6,13, 20,25;547:7,19; 548:2,5,8,10,17; 549:10,12,14,18; 551:24;561:7,22; 562:12;575:12,14,18; 576:12;584:18; 623:4;627:11,24; 631:23	15,18,24,25 witness' (1) 628:20 witnesses (2) 561:21;592:13 Wood (11) 558:25;559:25; 560:20;566:2; 568:25;569:3; 579:13;586:16,19; 602:21;645:19
unclear (1) 652:17		W		
under (7) 630:13,18;636:19; 640:22;641:3; 644:20;647:17		W-4 (2) 593:2;594:25		
UNIDENTIFIED (1) 571:9		wait (1) 652:21		
uniform (1) 593:9		waiting (1) 589:6	Winston (1) 613:12	word (2) 570:8,9
uniforms (1) 593:10	urologycom (1) 573:10	walk (2) 589:7;591:5	Wishart (1) 608:21	words (1) 546:17
Union (31) 543:13;546:6,6,18, 22;547:8,15;548:11; 551:7,7,16,19;552:4; 553:17;562:6; 622:23;627:17,21,22, 23,24;631:11,11,14, 19;633:11,12,25; 634:22,22,25	Urology's (1) 581:9	warning (3) 601:14;602:10,11	W-I-S-H-A-R-T (1) 608:23	work (25) 556:2,2;559:18; 570:3;571:6,25; 572:4,8;574:14; 578:2;580:1,9; 581:13;594:6,10; 595:23;600:21; 603:23;604:4,6,8; 636:6,16;653:4,10
Union's (13) 543:17;549:7; 551:5,18,21,22; 553:19;627:14; 631:15,20;634:2,4; 635:2	use (19) 560:10,10;573:7; 593:14;600:17,19; 603:19,20,20;613:10; 619:11;620:3;625:3, 7,7;628:14;636:14; 644:15,19	warnings (1) 601:16	Withdrawn (2) 605:5;639:2	worked (1) 603:21
unit (16) 543:23;544:14,17; 546:11,21;548:13,25, 25;549:3,6,16,21; 552:8;553:13,15; 605:3	used (6) 583:20,21;622:20; 623:25;645:5,7	way (8) 545:16;553:12; 611:24;616:10,16; 631:19;632:8;645:3	withholding (1) 593:4	workers (4) 544:22;552:18,21; 636:6
United (4) 578:11,12,19,20	uses (2) 583:8;649:13	ways (2) 560:10,10	within (4) 563:19;569:13,15; 608:1	Workers' (1) 617:20
units (9) 546:15,18,25; 547:2,14;548:21,22; 549:8;551:10	V	wear (2) 570:10;593:10	without (2) 565:23;618:3	working (8) 566:15;570:7; 597:17;602:3; 604:16;626:13; 632:17;642:19
unless (2) 562:11;624:18	vacation (8) 559:15;579:2,11, 12,15;586:21,23; 654:17	website (9) 561:2,4;571:18,19; 609:3,5,7,11;614:17	witness (158) 553:21;554:2; 555:10;557:22,24; 558:7;559:2;562:15; 563:18;564:2,12; 565:16,18;571:8,10; 576:25;577:2,19,21; 578:11,16,19,22,24; 581:8,11,15;584:20; 585:18;587:4,21; 590:9,13;591:2,5,8; 594:15,18;595:4,8; 596:9,12,14,18,20, 22;599:2,20,22,25; 600:5,8;602:3,5,8,19, 21,23;603:1;606:16, 18;608:8,10;609:14; 611:15,18,20;614:3; 616:13;618:7,10; 619:14,16;620:4,6, 10,13;621:18; 623:23;624:1,21; 625:5,9;626:11,25; 627:7;630:25;631:6, 8,10,24;632:2; 635:18;637:21,24; 640:5,9;642:6,12,15; 643:1,3,25;644:12, 14,16;645:6,9,12,16, 19,22,24;646:1,4,8, 10,12,15,17;647:12; 648:24;649:1,12,14, 20,23;650:2,4,6,8; 651:6,9,13,16,19,23; 652:1,6,10,15,19; 653:2,5,12,15,17,20, 25;654:3,6,9,11,13,	works (4) 543:22;596:5; 608:25;652:18
up (12) 553:10;555:3; 560:13,16;572:20; 586:3;588:1;591:5; 595:11;598:25; 612:24;652:24	vague (1) 588:11	week (4) 571:9;609:24; 610:16,21		wound (37) 554:25;561:13; 568:17,20,23;580:1, 21;584:25;585:12, 25;586:13,18;588:5; 589:8,10;593:16,17; 594:3,6,9;597:13,19; 598:16,20;601:7; 604:12,18;605:22; 607:10;609:7;613:1, 6;619:10;621:15; 623:25;639:6;647:3
updated (1) 586:4	validate (1) 572:14	weight (1) 553:6		Write (3) 564:22,23;572:23
UroCare (3) 583:7,8,11	Vanguard (1) 613:10	welcome (1) 654:24		writings (1) 564:18
urology (74) 543:23;554:5,25; 555:25,25;556:15,16; 558:19,22;559:1; 560:9;561:13;566:1, 3;569:1,19;570:2; 571:2,4,18;573:4,9, 11,12,12,18;574:19; 576:19,20,23;577:9, 12,14;578:2,6;580:1,	vacations (4) 560:4;579:4,5,7	Wen (1) 636:1		written (4) 565:12;601:14,16; 602:11
	vague (1) 588:11	Wesley (2) 633:8,8		wrong (1) 548:21
	valid (1) 572:14	West (14) 556:17,23;561:12; 589:12;597:14; 611:12;613:4,18; 617:11;638:23,25; 639:6,7;652:5		
	Vanguard (1) 613:10	What's (14) 557:18;563:10; 568:2;572:14; 600:22;603:6; 604:10;606:24,24; 616:21;617:6; 619:12;621:12;647:4		
	various (1) 559:7	Whereupon (8) 546:3;550:12; 553:25;584:6; 625:14;643:10,18; 655:2		
	vary (1) 593:19	whole (1) 623:21		
	verbal (1) 602:10	who's (6) 586:6,12;608:18; 615:10;626:10;		
	version (1) 646:3			
	vertical (1) 570:14			
	vice (4) 606:5,11,11,14			
	vision (5) 578:8;616:21,21, 22,22			
	Vitality (3) 636:1,4,4			
	vitals (2) 574:10;575:25			
	VOIR (1)			
				X

X-ray (6) 588:3,16;589:24; 590:4;613:17,18 X-rays (2) 588:20,24				
Y				
year (4) 579:20;583:6; 606:25;613:22 yearly (1) 607:1 years (5) 552:17;570:6,7; 606:23;644:12 yellow (2) 570:15,21 York (48) 544:15,19,21; 547:6,20,23;548:13; 552:1,3,14,15;556:7, 10,11,20;561:2,4,10; 562:13,13;570:3,16; 578:13,14;592:5; 594:7,10;596:12,15, 22,25;600:24,25; 604:8;606:12,16; 608:25;609:6; 612:15;615:14; 616:20;617:5,8,24; 638:20,21;650:13; 654:15				
Z				
Zoltan (3) 610:2,4,12				

In The Matter Of:
NEW YORK METHODIST MSOB of Kings
County and
1199 SEIU, UNITED HEALTHCARE
WORKERS EAST

Vol. 7
April 13, 2016

Burke Court Reporting, LLC
1044 Route 23, Suite 316
Wayne, NJ 0747
(973) 692-0660

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Page 657

BEFORE THE
NATIONAL LABOR RELATIONS BOARD

In the Matter of:
NEW YORK METHODIST HOSPITAL/
MSO OF KINGS COUNTY, LLC,

Employer,

And
1199 SEIU, UNITED HEALTHCARE
WORKERS EAST,

Petitioner.

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Page 661	Page 663
<p>1 PROCEEDINGS 2 (Time Noted: 9:48 a.m.) 3 HEARING OFFICER SCHAEFER: <small>On the record.</small> 4 Alright. We're on the record. You can sit. Alright. So 5 today is April 13th. We are continuing the record in 172410 -- 6 29-RC-172410. Hearing Officer appearing for the Board is Erin 7 Schaefer. So we're going to continue with witnesses. 8 As previously stated, some of the witnesses are testifying 9 about matters that may touch on both the Urology 172410 case 10 and the Wound Care case 172398. And the Regional Director will 11 be taking notice -- administrative notice of both records where 12 necessary. Okay. Alright. We've -- the Union had subpoenaed 13 Ms. Donovan. I'm sorry, what's your first name? 14 THE WITNESS: Jennifer. 15 HEARING OFFICER SCHAEFER: <small>From the record, that's all.</small> 16 the witness has appeared. So Ms. Donovan, could you raise your 17 right hand? 18 Whereupon, 19 JENNIFER DONOVAN</p>	<p>1 A Yes. 2 Q Okay. And are those all facilities that are related or 3 they're affiliate with New York Methodist Hospital? The MSO of 4 Kings County, LLC, are they all affiliated with New York 5 Methodist Hospital? 6 A They work -- 7 MR. FRANK: Objection to form. 8 THE WITNESS: I guess I don't understand the question. 9 HEARING OFFICER SCHAEFER: Okay. 10 BY MS. WILCOX: 11 Q The MSO of Kings County -- 12 A Yes. 13 Q -- was created by New York Methodist Hospital? 14 A To my knowledge -- 15 Q Yeah. 16 A -- yeah. 17 Q And was it created to provide -- it's a management service 18 organization created for -- to provide administrative services 19 to physicians' practices? 20 A Yes, it was. 21 Q Okay. And those physician practices are affiliated with 22 New York Methodist Hospital? 23 A Yes. 24 Q Where is your office located? 25 A 506 Sixth Street on the eighth floor.</p>
Page 662	Page 664
<p>1 sure I address your appropriately. 2 THE WITNESS: Thank you. 3 HEARING OFFICER SCHAEFER: <small>Other people in the room.</small> 4 Wilcox. She's going to start asking -- 5 THE WITNESS: Hi. 6 HEARING OFFICER SCHAEFER: <small>-- you raise question --</small> 7 MS. WILCOX: Hi. 8 HEARING OFFICER SCHAEFER: <small>-- that is enough for Me.</small> 9 Felstiner -- 10 THE WITNESS: Okay. 11 HEARING OFFICER SCHAEFER: Okay. 12 DIRECT EXAMINATION 13 BY MS. WILCOX: 14 Q Good morning. 15 A Good morning. 16 Q By whom are you employed? 17 A New York Methodist Hospital. 18 Q In what position? 19 A I'm the assistant vice president. 20 Q And are you responsible for any particular area within the 21 hospital or department? 22 A Yes. I'm in charge of offsite centers and for the MSO 23 doctor practices. 24 Q And of the -- when you say MSO, you're referring to MSO of 25 Kings County, LLC?</p>	<p>1 Q And who do you report to? 2 A Mark Mundy. 3 Q And who is Mark Mundy? 4 A Mark Mundy is the president and CEO of New York Methodist 5 Hospital. 6 Q And he is a doctor? 7 A No, he's not. 8 Q He's not? 9 A No. 10 Q Okay. And who -- within your department, who else -- do 11 you have other employees who work within your department? 12 A Other employees such as other than who? 13 Q Well, you're the assistant vice president. Do you have 14 other -- do you have staff that work with you? 15 A I have managers that offsites, yes. 16 Q Okay. And so the managers at the offsites do not work 17 within the physical -- physically within New York Methodist 18 Hospital? 19 A No, they do not. 20 Q Okay. Now, with respect to the Wound Care and Hyperbaric 21 Treatment Center, are you familiar with that? 22 A Yes. 23 Q Okay. And is that a center that's under your 24 responsibility? 25 A Yes, it is.</p>

<p style="text-align: right;">Page 665</p> <p>1 Q And what is your responsibility with respect to that 2 center? 3 A I provide oversight and advisory in an advisory role. 4 Q And do you have a manager who is at the location? 5 A Yes, I do. 6 Q Okay. And who is the manager? 7 A Karen Chan. 8 Q And Karen Chan is employed by who? 9 A The MSO. 10 Q And what is her responsibility, with respect to the Wound 11 Care Center? 12 A She oversees the daily operations of the center, and 13 insures that policies are being followed and patient safety. 14 Q And with -- do you approve hiring of staff within the 15 Wound Care Center? 16 A No, I don't. 17 Q Do you have any responsibility with regard to hiring of 18 staff within the Wound Care Center? 19 A No. 20 Q Now, the Wound Care Center, in order for the -- excuse me, 21 strike that. In order for the hospital to operate, it has to 22 have a Article 28 license under New York State? 23 A Yeah. 24 Q Okay. And does the Wound Care Center operate under the 25 hospital's Article 28 license?</p>	<p style="text-align: right;">Page 667</p> <p>1 MS. WILCOX: April -- 2 HEARING OFFICER SCHAEFER: <small>You just --</small> 3 MS. WILCOX: -- of 2010. 4 MR. FRANK: That's when it was created. 5 MS. WILCOX: Yes. 6 HEARING OFFICER SCHAEFER: <small>Okay. I --</small> 7 MS. WILCOX: Yeah. I think it's relevant as to where -- 8 who was responsible before Ms. Donovan took over. 9 MR. FRANK: How can that be relevant to whether there's a 10 question concerning representation -- 11 HEARING OFFICER SCHAEFER: <small>Well, it's relevant --</small> 12 MR. FRANK: -- in 2016? 13 HEARING OFFICER SCHAEFER: <small>It's relevant to the question concerning the Employer. So who</small> 14 it's relevant to the question concerning the Employer. So who 15 was responsible for the MSO before you? 16 THE WITNESS: Errol -- 17 HEARING OFFICER SCHAEFER: <small>It's relevant to 2016</small> 18 THE WITNESS: Errol Hankin. 19 BY MS. WILCOX: 20 Q And what was his title at that time? 21 A Senior vice president. 22 Q Of? Did he have a particular area? 23 A No, he had departments, but not -- several departments, 24 but I don't know off the top of my head which departments they 25 were.</p>
<p style="text-align: right;">Page 666</p> <p>1 A Yes, it does. 2 Q How long have you been employed by New York Methodist 3 Hospital? 4 A I will have been there 36 years at -- in December. 5 Q And how long have you been the assistant vice president in 6 charge of offsite and MSO? 7 A I was promoted about 18 years. Maybe 16 years my title 8 had changed. About 16 years. 9 Q Now, 16 years ago -- well, you were -- were you 10 responsibility for offsite 16 years ago? 11 A Yes. 12 Q Okay. And the MSO was created in April of 2010, is that 13 correct? 14 A Yes. 15 Q And that -- and you began being responsible for MSO at 16 that time? 17 A No, the sites that were MSO at that time were under a 18 different vice president. I assumed responsibility in about 19 2012. 20 Q Who were they previously response -- who was 21 responsibility -- 22 MR. FRANK: Objection as to relevance. What difference 23 does it make what was in existence before 2012? 24 HEARING OFFICER SCHAEFER: <small>It's relevant to the question concerning the Employer. So who</small> 25 what year was the MSO --</p>	<p style="text-align: right;">Page 668</p> <p>1 Q Okay. And did you report to Mr. Hankin at that time? 2 HEARING OFFICER SCHAEFER: <small>It's relevant to the question concerning the Employer. So who</small> 3 limit that. We know who the person was that was in charge. 4 You know who the person is now. So I think we can move on. 5 BY MS. WILCOX: 6 Q At that time did Mr. Hankin report to Mark Mundy? 7 MR. FRANK: Objection. The second -- 8 HEARING OFFICER SCHAEFER: <small>It's relevant to the question concerning the Employer. So who</small> 9 MR. FRANK: In two -- 10 HEARING OFFICER SCHAEFER: <small>It's relevant to the question concerning the Employer. So who</small> 11 I'm overruling the objection, in terms of we need -- do need to 12 establish the chain of command. So who the -- so if you know, 13 who was Errol Hankin's -- who did he report to? 14 THE WITNESS: Mark Mundy. 15 HEARING OFFICER SCHAEFER: <small>It's relevant to the question concerning the Employer. So who</small> 16 I'm going to limit it to that question. So -- 17 BY MS. WILCOX: 18 Q So with regard to the Urology center at 1 Prospect Park 19 West, do you have responsibility for that location? 20 MR. FRANK: I'm going -- 21 THE WITNESS: Yes. 22 MR. FRANK: -- to object to the form of -- 23 THE WITNESS: I do. 24 MR. FRANK: -- of the question, because I think it's a 25 physician practice. It's not a center. We ought to refer to</p>

<p style="text-align: right;">Page 669</p> <p>1 it appropriately.</p> <p>2 HEARING OFFICER SCHAEFER: <small>Okay. Please try to --</small></p> <p>3 MS. WILCOX: Okay.</p> <p>4 HEARING OFFICER SCHAEFER: <small>...and it's appropriate.</small></p> <p>5 BY MS. WILCOX:</p> <p>6 Q So let me just go back. Wound Care Center is located at 1</p> <p>7 Prospect Park West?</p> <p>8 A Yes, it is.</p> <p>9 Q Okay. And is there also a Urology office there as well?</p> <p>10 A A Urology practice, yes.</p> <p>11 Q And do you have responsibility with regard to that</p> <p>12 practice?</p> <p>13 A Yes.</p> <p>14 Q Is your practice -- is your responsibility any different</p> <p>15 than with regard to the Wound Care Center?</p> <p>16 A No, the responsibility is across the board.</p> <p>17 Q Now, do you have any responsibility with regard to hiring</p> <p>18 or approving hiring of employees within the Urology practice?</p> <p>19 A No.</p> <p>20 MS. WILCOX: Just a moment. I'd like to -- could you show</p> <p>21 the witness MSO-8(f)?</p> <p>22 HEARING OFFICER SCHAEFER: <small>...and it's appropriate.</small></p> <p>23 -</p> <p>24 MS. WILCOX: Oh, he doesn't -- should we go off the record</p> <p>25 for a moment?</p>	<p style="text-align: right;">Page 671</p> <p>1 MS. WILCOX: Yeah, resign.</p> <p>2 HEARING OFFICER SCHAEFER: <small>...and it's appropriate.</small></p> <p>3 MS. WILCOX: Yes.</p> <p>4 HEARING OFFICER SCHAEFER: <small>...and it's appropriate.</small></p> <p>5 MS. WILCOX: Yes.</p> <p>6 HEARING OFFICER SCHAEFER: <small>Alright. So it's that</small></p> <p>7 document.</p> <p>8 CONTINUED DIRECT EXAMINATION</p> <p>9 BY MS. WILCOX:</p> <p>10 Q Ms. Donovan, I'm showing you the employee status change</p> <p>11 form, which is part of MSO-8(f). Do you -- does your name</p> <p>12 appear on this document?</p> <p>13 A Yes, it does.</p> <p>14 Q Okay. And do you know who the -- and that's listed as</p> <p>15 administrator, is that correct?</p> <p>16 A Yes, it is.</p> <p>17 Q Okay. And then where it says department head and date, do</p> <p>18 you know whose signature that is?</p> <p>19 A I can't recognize this. Suzanne Dinnerstein is the</p> <p>20 manager there.</p> <p>21 Q So you would think that would be her signature?</p> <p>22 A Yes.</p> <p>23 Q Now, what was your responsibility with regard to this</p> <p>24 form?</p> <p>25 A Well, she is advising me that there was a change in</p>
<p style="text-align: right;">Page 670</p> <p>1 HEARING OFFICER SCHAEFER: Sure.</p> <p>2 (Whereupon, a brief recess was taken)</p> <p>3 HEARING OFFICER SCHAEFER: <small>On the record.</small></p> <p>4 What particular document?</p> <p>5 MS. WILCOX: Employee status change form.</p> <p>6 HEARING OFFICER SCHAEFER: <small>...and it's appropriate.</small></p> <p>7 MS. WILCOX: And there's -- and while you're looking --</p> <p>8 yeah, let's --</p> <p>9 HEARING OFFICER SCHAEFER: <small>What does --</small></p> <p>10 MS. WILCOX: -- start with that.</p> <p>11 HEARING OFFICER SCHAEFER: <small>...and it's appropriate.</small></p> <p>12 MS. WILCOX: That's one --</p> <p>13 HEARING OFFICER SCHAEFER: Yeah.</p> <p>14 MS. WILCOX: That kind of a --</p> <p>15 HEARING OFFICER SCHAEFER: <small>...and it's appropriate.</small></p> <p>16 yesterday. There's like a couple different ones --</p> <p>17 MR. FRANK: Why don't you just show the witness the copy?</p> <p>18 MR. FELSTINER: We only have one.</p> <p>19 HEARING OFFICER SCHAEFER: Is it --</p> <p>20 MR. FRANK: No, you actually have two.</p> <p>21 HEARING OFFICER SCHAEFER: <small>Oh, it's this.</small></p> <p>22 MR. FRANK: You actually have two.</p> <p>23 HEARING OFFICER SCHAEFER: <small>This one?</small></p> <p>24 MS. WILCOX: Yes.</p> <p>25 HEARING OFFICER SCHAEFER: <small>...and it's appropriate.</small></p>	<p style="text-align: right;">Page 672</p> <p>1 personnel at the site.</p> <p>2 Q Okay.</p> <p>3 A And I acknowledged.</p> <p>4 Q And when it says -- the handwriting where it says</p> <p>5 comments, who wrote that?</p> <p>6 A I did, from a note that they -- that she sent me. I put</p> <p>7 it on the form.</p> <p>8 Q Now, as a result of this employee status change form, what</p> <p>9 happened with this piece of paper, that form, afterwards, after</p> <p>10 you signed it?</p> <p>11 A It went to Joanne.</p> <p>12 HEARING OFFICER SCHAEFER: <small>That's okay.</small></p> <p>13 BY MS. WILCOX:</p> <p>14 Q Are you referring to Joanne Kennedy?</p> <p>15 A Joanne Kennedy. I'm sorry.</p> <p>16 HEARING OFFICER SCHAEFER: <small>That's okay.</small></p> <p>17 BY MS. WILCOX:</p> <p>18 Q And then after that was -- went to Joanne, do you know</p> <p>19 what the process was?</p> <p>20 A No, I don't. I assuming they filled the position, but I</p> <p>21 don't know.</p> <p>22 MR. FRANK: Objection.</p> <p>23 HEARING OFFICER SCHAEFER: <small>If you --</small></p> <p>24 MR. FRANK: Don't assume.</p> <p>25 HEARING OFFICER SCHAEFER: Yeah.</p>

<p style="text-align: right;">Page 673</p> <p>1 THE WITNESS: Okay.</p> <p>2 HEARING OFFICER SCHAEFER: <small>...that's fine, but --</small></p> <p>3 you can just say I don't know.</p> <p>4 MR. FRANK: Don't assume, don't guess.</p> <p>5 HEARING OFFICER SCHAEFER: Yeah.</p> <p>6 THE WITNESS: Okay. Sorry.</p> <p>7 HEARING OFFICER SCHAEFER: <small>...that's fine, but --</small></p> <p>8 Okay, that's fine.</p> <p>9 BY MS. WILCOX:</p> <p>10 Q And if you could also look for a personnel requisition</p> <p>11 form in the --</p> <p>12 A Yes.</p> <p>13 Q -- same packet? And maybe --</p> <p>14 A Same thing, yes.</p> <p>15 Q Okay. And is that you signature listed as administrator?</p> <p>16 A Yes, it is.</p> <p>17 Q Okay. And that's March 4th 2016?</p> <p>18 A Yes.</p> <p>19 Q Okay. And what was -- and after you signed this form,</p> <p>20 what did you -- what -- do you know what happened with this?</p> <p>21 A It was given to Joanne Kennedy or sent to Joanne Kennedy.</p> <p>22 Q And how did you receive it?</p> <p>23 A My secretary, through interoffice mail.</p> <p>24 Q And where -- who -- from whom, do you know?</p> <p>25 A From the office manager.</p>	<p style="text-align: right;">Page 675</p> <p>1 A Yes, it is.</p> <p>2 (Union's U-35 identified)</p> <p>3 Q And with -- so you -- your name is listed under -- as a</p> <p>4 assistant vice president of ambulatory sites?</p> <p>5 A Uh-huh.</p> <p>6 Q Yes?</p> <p>7 A Yes.</p> <p>8 Q Okay.</p> <p>9 A Sorry.</p> <p>10 Q And where -- and all of the -- the Wound Care Center</p> <p>11 Hyperbaric Center is listed. And besides the -- Urology is not</p> <p>12 listed. Where would that -- does that -- where would that fall</p> <p>13 under your -- the box with your name?</p> <p>14 A It would fall on --</p> <p>15 MR. FRANK: Objection to form. Urology is not part of the</p> <p>16 hospital.</p> <p>17 HEARING OFFICER SCHAEFER: Well --</p> <p>18 BY MS. WILCOX:</p> <p>19 Q Is there any reference to -- in this document to Urology?</p> <p>20 HEARING OFFICER SCHAEFER: <small>Well, the document --</small></p> <p>21 MS. WILCOX: Yeah.</p> <p>22 HEARING OFFICER SCHAEFER: <small>...that's fine, but --</small></p> <p>23 and the witness has testified --</p> <p>24 THE WITNESS: They --</p> <p>25 HEARING OFFICER SCHAEFER: <small>...that she --</small></p>
<p style="text-align: right;">Page 674</p> <p>1 Q Now, besides your signature and the date, is any --</p> <p>2 there's other handwriting on this document. Is there -- did</p> <p>3 you fill out anything on this form, other than your signature</p> <p>4 and --</p> <p>5 A No, I did not.</p> <p>6 Q Do you know else -- who filled out the remainder of the</p> <p>7 form?</p> <p>8 A No, I do not.</p> <p>9 Q Was your -- you -- is your understanding you received the</p> <p>10 form from the office manager of an MSO?</p> <p>11 A Yes.</p> <p>12 Q And that it was returned to the manager at MSO or to</p> <p>13 Joanne?</p> <p>14 A To Joanne.</p> <p>15 Q Joanne Kennedy. Okay.</p> <p>16 A Uh-huh.</p> <p>17 MS. WILCOX: I'd like this marked as Union 35.</p> <p>18 HEARING OFFICER SCHAEFER: <small>Union 35.</small></p> <p>19 BY MS. WILCOX:</p> <p>20 Q Ms. Donovan --</p> <p>21 A Yes.</p> <p>22 Q -- do you recognize this document?</p> <p>23 A Yes, I do.</p> <p>24 Q Okay. And is this a table of organization for New York</p> <p>25 Methodist Hospital?</p>	<p style="text-align: right;">Page 676</p> <p>1 MS. WILCOX: Uh-huh.</p> <p>2 THE WITNESS: Yes.</p> <p>3 MS. WILCOX: Okay. So --</p> <p>4 HEARING OFFICER SCHAEFER: <small>...that's fine, but --</small></p> <p>5 MS. WILCOX: Yeah.</p> <p>6 HEARING OFFICER SCHAEFER: <small>...that's fine, but --</small></p> <p>7 MS. WILCOX: Yeah.</p> <p>8 HEARING OFFICER SCHAEFER: <small>...that's fine, but --</small></p> <p>9 the document to be correct --</p> <p>10 MS. WILCOX: Yeah.</p> <p>11 HEARING OFFICER SCHAEFER: <small>...that's fine, but --</small></p> <p>12 whoever made the document.</p> <p>13 MS. WILCOX: Yeah.</p> <p>14 BY MS. WILCOX:</p> <p>15 Q Is Urology part of New York -- Y -- NYM Medical</p> <p>16 Associates?</p> <p>17 A Yes.</p> <p>18 Q Okay.</p> <p>19 A They don't list each site. So --</p> <p>20 MS. WILCOX: I'd offer Union 35.</p> <p>21 HEARING OFFICER SCHAEFER: <small>Any objection?</small></p> <p>22 MR. FRANK: No objection.</p> <p>23 HEARING OFFICER SCHAEFER: <small>...that's fine, but --</small></p> <p>24 just stick it on the side here --</p> <p>25 (Union's U-35 received in evidence)</p>

<p style="text-align: right;">Page 677</p> <p>1 THE WITNESS: Okay.</p> <p>2 MS. WILCOX: I'd like to have this marked as Union 36.</p> <p>3 BY MS. WILCOX:</p> <p>4 Q What is this document?</p> <p>5 A It says outpatient guide.</p> <p>6 (Union's U-36 identified)</p> <p>7 Q And are you familiar with this document?</p> <p>8 A Not specifically.</p> <p>9 Q When you say not specifically, what do you mean?</p> <p>10 A I mean there are brochures throughout the hospital. I</p> <p>11 don't know if I'm familiar with this particular one --</p> <p>12 Q Referring you to page five of the document --</p> <p>13 A Yes.</p> <p>14 Q -- where it make reference to Urologic Oncology, is that</p> <p>15 the practice at 1 Prospect Park West?</p> <p>16 A The physicians there offer Urologic Oncology. That's not</p> <p>17 the name of the practice, but they offer those services.</p> <p>18 Q And turning to page eight, 1 Prospect Park West that's</p> <p>19 reference to the Urology practice?</p> <p>20 A Yes.</p> <p>21 Q And turning to page 15, at the bottom where it says</p> <p>22 Urology faculty practice, does that make reference to the</p> <p>23 services provided by the Urology practice at 1 Prospect Park</p> <p>24 West?</p> <p>25 A Yes.</p>	<p style="text-align: right;">Page 679</p> <p>1 HEARING OFFICER SCHAEFER: <small>She has the record.</small></p> <p>2 of the employer of the employees. So I'm overruling the</p> <p>3 objection.</p> <p>4 BY MS. WILCOX:</p> <p>5 Q Ms. Donovan, do you visit 1 Prospect Park West as part of</p> <p>6 your regular responsibility?</p> <p>7 A On occasion.</p> <p>8 Q Okay. And do you have -- when you -- do you meet with the</p> <p>9 office managers at 1 Prospect Park West?</p> <p>10 A Yes, I do.</p> <p>11 Q And how often do you meet with them?</p> <p>12 A Monthly.</p> <p>13 Q And do they meet with you at the hospital, the office</p> <p>14 managers?</p> <p>15 A At times, yes.</p> <p>16 Q When I say managers, I'm referring to the office -- Karen</p> <p>17 Chan and --</p> <p>18 A Yeah.</p> <p>19 Q -- Susan Dinnerstein-Wood.</p> <p>20 A Yes.</p> <p>21 Q And do your meetings involve discussing the management and</p> <p>22 staffing at 1 Prospect Park West?</p> <p>23 A They update me on the -- what goes on, operationally, on</p> <p>24 the site.</p> <p>25 Q And that would include the staffing of employees at the --</p>
<p style="text-align: right;">Page 678</p> <p>1 Q And if you could to page 18? This is -- where it says</p> <p>2 Wound Care and Hyperbaric Center, that is a description of the</p> <p>3 services provided at that center at 1 Prospect Park West?</p> <p>4 A Yes.</p> <p>5 HEARING OFFICER SCHAEFER: <small>...on the record.</small></p> <p>6 Wilcox, if you'd just flip to page 19 there's some checkmarks -</p> <p>7 -</p> <p>8 MS. WILCOX: We're -- there's no -- we're not offer it</p> <p>9 with the checkmarks, but --</p> <p>10 HEARING OFFICER SCHAEFER: <small>Okay. But the --</small></p> <p>11 MS. WILCOX: Yeah. It doesn't --</p> <p>12 HEARING OFFICER SCHAEFER: <small>...on the record.</small></p> <p>13 don't appear on the original? Or --</p> <p>14 MS. WILCOX: Well, the original we had, we -- someone had</p> <p>15 put marks.</p> <p>16 HEARING OFFICER SCHAEFER: <small>...on the record.</small></p> <p>17 MS. WILCOX: Marked --</p> <p>18 HEARING OFFICER SCHAEFER: Okay.</p> <p>19 MS. WILCOX: Yeah. I'd offer Union 36.</p> <p>20 HEARING OFFICER SCHAEFER: <small>Any objection?</small></p> <p>21 MR. FRANK: Objection on the grounds of relevance.</p> <p>22 HEARING OFFICER SCHAEFER: <small>Okay. Overruled.</small></p> <p>23 (Union's U-36 received in evidence)</p> <p>24 MR. FRANK: What's the relevance of this to the issues be</p> <p>25 -- whether there's a question concerning representation?</p>	<p style="text-align: right;">Page 680</p> <p>1 At 1 Prospect Park West?</p> <p>2 A If there's a change in the staffing, they would notify me.</p> <p>3 MS. WILCOX: Can we go off the record for a moment?</p> <p>4 HEARING OFFICER SCHAEFER: Yes.</p> <p>5 (Whereupon, a brief recess was taken)</p> <p>6 HEARING OFFICER SCHAEFER: <small>On the record.</small></p> <p>7 BY MS. WILCOX:</p> <p>8 Q Is there a contact or a written agreement between New York</p> <p>9 Methodist Hospital and MSO of Kings County, LLC?</p> <p>10 A I don't know.</p> <p>11 Q Who would be -- at New York Methodist Hospital who would</p> <p>12 be the person who would know whether or not there was a</p> <p>13 contract, an agreement?</p> <p>14 MR. FRANK: Objection.</p> <p>15 MS. WILCOX: If you know.</p> <p>16 HEARING OFFICER SCHAEFER: <small>...on the record.</small></p> <p>17 THE WITNESS: No, I don't know.</p> <p>18 HEARING OFFICER SCHAEFER: Okay.</p> <p>19 BY MS. WILCOX:</p> <p>20 Q With MSO, what is your understanding as to their</p> <p>21 responsibility -- your responsibility with respect to MSO?</p> <p>22 MR. FRANK: Objection to form. I don't understand the</p> <p>23 question.</p> <p>24 MS. WILCOX: What is your responsibility with respect to</p> <p>25 MSO?</p>

<p style="text-align: right;">Page 681</p> <p>1 THE WITNESS: As I said before, I provide oversight to 2 those practices. And I actually have an advisory role. 3 BY MS. WILCOX: 4 Q Advisory in what way? 5 A If an issue comes up, whether it's operational or 6 regulatory, they will come to me to discuss it. 7 Q They being who? 8 A The managers. 9 Q And when you say operationally what do you mean? 10 A Day to day operations. Something -- you know, a change in 11 how things are run. Efficiency of the operation. Managing the 12 day to day running of that practice. 13 Q And would that involve issues regarding staffing? 14 A That wouldn't go to me. That would go to Joanne Kennedy. 15 Q So I understand that there was a flood of some type at 1 16 Prospect Park West? 17 A Yes, there was. 18 Q And were you made aware of that? 19 A Yes, I was. 20 Q Okay. And how were you made aware of that? 21 A The managers called me. 22 Q And did you have any responsibility or take any action as 23 a result of that? 24 A Yes. 25 Q Okay. And what did --</p>	<p style="text-align: right;">Page 683</p> <p>1 Q And Spine and Pediatrics are areas under your oversight as 2 well? 3 A No, they're not. 4 Q They're not. But you had responsibility, in terms of 5 making certain that they were moved if necessary? 6 A Yes. 7 MS. WILCOX: Nothing further. 8 HEARING OFFICER SCHAEFER: <small>in front of the court</small> 9 questions. Do you want to go first or do you want me to just - 10 - it's up to you. 11 MR. FRANK: Why don't I ask a few questions? 12 HEARING OFFICER SCHAEFER: <small>Me or you?</small> 13 MR. FRANK: I -- 14 HEARING OFFICER SCHAEFER: <small>in front of the court</small> 15 way then. Alright. He's going to ask you some questions. 16 THE WITNESS: Okay. 17 CROSS EXAMINATION 18 BY MR. FRANK: 19 Q Would you describe what New York Methodist Hospital is, 20 please? 21 A New York Methodist is a large acute care teaching 22 facility. We have 650 beds. We are a level one trauma 23 certification. 24 We have a Cardiac Surgery Program. We are a Stroke 25 Center. We have Robotic Surgery. Minimal invasive --</p>
<p style="text-align: right;">Page 682</p> <p>1 A We relocated those part -- or what services we could 2 relocate, we did. We found space for them and accommodated 3 them for I think a day or two at another location, so we didn't 4 disrupt patient care. Not all of the practices, but whatever - 5 - who ever was effected by the flood. 6 Q Okay. And do you recall which practices? 7 A Urology and the Wound Care, the hyperbaric piece didn't 8 stay open. We couldn't relocate that. But Urology for sure 9 moved. 10 Q And you're saying the hyperbaric chamber couldn't move, 11 but -- 12 A So we couldn't perform hyperbaric services at that time, 13 but Wound Care we used another section that wasn't affected by 14 the flood. 15 Q Another section of 1 Prospect? 16 A Of that, yes. 17 Q And what about any other part of 1 Prospect Park West? 18 A Yes. Spine and Arthritis Center. 19 Q They moved? 20 A Yeah, we relocated them I think for a day or two also. 21 Q And what about Pediatrics? 22 A I think one. No, Pediatrics was not affected at all by 23 the flood. 24 Q And how long ago was this? If you recall. 25 A I want to say a month and a half ago.</p>	<p style="text-align: right;">Page 684</p> <p>1 minimally invasive surgery. Gynecological surgery. 2 We have Interventional Radiology. We have a large 3 Ambulatory Radiology Center. We have a Stroke Unit. 4 We have Critical Care Units, ICU/CCU. And step down units 5 for surgical, step down units for Orthopedics. We have rehab. 6 We take care of -- we have a large ER volume. We have 7 over 5,000 deliveries -- OB deliveries a year. We have 8 Pediatric and Pediatric specialties. We have Interventional 9 Radiology. We have Neurosurgery. 10 Q Are you a trauma center? 11 A Yes. I said level one trauma center. We have residency 12 programs, because we're a teaching hospital. 13 Q Do you have Psychiatric programs? 14 A Yes, we do. We have Adult Psych and Geriatric Psych 15 units. 16 Q And when was the hospital formed? 17 A 1881. 18 Q It is a New York not-for-profit corporation? 19 A Excuse me? 20 Q Is it a not-for-profit? 21 A Yes, it is not-for-profit. 22 Q Does the hospital have emergency rooms? 23 A Yes, it does. 24 Q Does it have a gift center? 25 A Has a gift center. It has a gift store. It has a</p>

<p style="text-align: right;">Page 685</p> <p>1 cafeteria. We have --</p> <p>2 Q Does it have a chapel?</p> <p>3 A Yes. We have a chapel, we have prayer room.</p> <p>4 Q Parking lot?</p> <p>5 A Parking lot across the street, yes.</p> <p>6 MR. FRANK: Can you show the witness exhibit 36?</p> <p>7 THE WITNESS: Yeah.</p> <p>8 BY MR. FRANK:</p> <p>9 Q Page -- can I direct your attention to page 25?</p> <p>10 A Yes.</p> <p>11 Q Would you identify what is the hospital building on this</p> <p>12 map?</p> <p>13 A Not there --</p> <p>14 Q If you can see.</p> <p>15 A My good -- where it says Carrington Pavilion --</p> <p>16 Q Yes.</p> <p>17 A -- that's part of the hospital right there. And it's the</p> <p>18 whole -- I assume this is the gray, because there's a Buckley</p> <p>19 Pavilion. It takes up the whole block.</p> <p>20 Q Okay. So the hospital is the Carrington Pavilion, the</p> <p>21 Buckley Pavilion --</p> <p>22 A And the Miner Pavilion.</p> <p>23 Q Okay. And the Kirkwood Pavilion?</p> <p>24 A Yes, it is. I can barley read that.</p> <p>25 HEARING OFFICER SCHAEFER: Yeah.</p>	<p style="text-align: right;">Page 687</p> <p>1 Q How far away is that?</p> <p>2 A It is three blocks.</p> <p>3 Q Now --</p> <p>4 HEARING OFFICER SCHAEFER: <small>He knows that too.</small></p> <p>5 street for that -- just so we have it in the record. It's 9th</p> <p>6 Street and --</p> <p>7 THE WITNESS: 7th Avenue.</p> <p>8 HEARING OFFICER SCHAEFER: <small>He knows? Okay.</small></p> <p>9 THE WITNESS: Uh-huh.</p> <p>10 HEARING OFFICER SCHAEFER: <small>Thank you.</small></p> <p>11 MR. FRANK: Let me direct your attention to page -- the</p> <p>12 fifth page in the booklet.</p> <p>13 THE WITNESS: Fifth page?</p> <p>14 BY MR. FRANK:</p> <p>15 Q Yeah. One -- fourth page, excuse me. Fourth page. That</p> <p>16 one.</p> <p>17 HEARING OFFICER SCHAEFER: <small>Is it -- oh.</small></p> <p>18 MR. FRANK: Fourth page. That one.</p> <p>19 HEARING OFFICER SCHAEFER: <small>This one right here.</small></p> <p>20 THE WITNESS: Yes.</p> <p>21 HEARING OFFICER SCHAEFER: <small>So the fourth.</small></p> <p>22 BY MR. FRANK:</p> <p>23 Q I see this refers to Brooklyn Hospital Center. Does that</p> <p>24 have anything to do with Methodist Hospital?</p> <p>25 A No, it doesn't.</p>
<p style="text-align: right;">Page 686</p> <p>1 BY MR. FRANK:</p> <p>2 Q Now --</p> <p>3 HEARING OFFICER SCHAEFER: <small>Enough, thank you.</small></p> <p>4 you know, what's that black spot on -- adjacent to the Miner</p> <p>5 Pavilion? This spot right here. Is that -- is there a</p> <p>6 building there or is there -- is it just too dark in the copy?</p> <p>7 THE WITNESS: I think it's just too dark in the copy.</p> <p>8 HEARING OFFICER SCHAEFER: <small>One more, thank you.</small></p> <p>9 Frank.</p> <p>10 MR. FRANK: Now, 1 Prospect Park West --</p> <p>11 THE WITNESS: Oh, you know what this is? I'm sorry.</p> <p>12 Excuse me. This is the Infill Pavilion. This is the -- we</p> <p>13 call it Infill building.</p> <p>14 BY MR. FRANK:</p> <p>15 Q And what is the Infill building?</p> <p>16 A That's patient care rooms as well.</p> <p>17 HEARING OFFICER SCHAEFER: <small>Okay, thank you.</small></p> <p>18 BY MR. FRANK:</p> <p>19 Q Now, 1 Prospect Park West is not on this map?</p> <p>20 A No, it's not.</p> <p>21 Q And how -- is -- how far away is 1 Prospect Park West from</p> <p>22 the hospital building?</p> <p>23 A It's a little over a mile.</p> <p>24 Q And is the 9th Street office on this map?</p> <p>25 A No, it's not.</p>	<p style="text-align: right;">Page 688</p> <p>1 Q And does the Brooklyn Hospital Center homecare services</p> <p>2 have anything to do with MSO of Kings County?</p> <p>3 A No, they do not.</p> <p>4 Q If you look to page three of this document going forward -</p> <p>5 - the numbered page three.</p> <p>6 A Yes.</p> <p>7 Q Looking at that first paragraph, does it -- I see it says</p> <p>8 that the hospital provides a wide variety of outpatient</p> <p>9 services outside of the hospital --</p> <p>10 A Yes.</p> <p>11 Q Okay. And are the listings that follow services that are</p> <p>12 made available to the community outside of the hospital?</p> <p>13 MS. WILCOX: I'm going to object. The characterization of</p> <p>14 what is read -- what is here. That's not what the statement</p> <p>15 says in the document.</p> <p>16 HEARING OFFICER SCHAEFER: <small>I think you --</small></p> <p>17 MR. FRANK: I think it does, doesn't it?</p> <p>18 HEARING OFFICER SCHAEFER: <small>You can just read it.</small></p> <p>19 MR. FRANK: Doesn't it say that outpatient services are</p> <p>20 located at and around the main hospital campus?</p> <p>21 MS. WILCOX: Yes, that's what it says.</p> <p>22 MR. FRANK: Okay. Does that mean they're not provided in</p> <p>23 the hospital?</p> <p>24 THE WITNESS: Yes.</p> <p>25 BY MR. FRANK:</p>

<p style="text-align: right;">Page 689</p> <p>1 Q Now, do physicians who have privileges at the hospital 2 maintain their own private practices? 3 A Yes. 4 Q And are physicians credentialed to practice at the 5 hospital? 6 A Yes, they are. 7 Q And is the credentialing of physicians something under the 8 jurisdiction of the Medical Affairs Department? 9 A Yes. 10 Q And is the Urology practice at 1 Prospect Park Center a 11 physician practice? 12 A Yes, it is. 13 Q And is the physician practice part of the Article 28 of 14 the hospital? 15 A No, it is not. 16 Q And is that -- now, approximately how many offsite 17 locations are there -- 18 A 17. 19 Q Okay. And how many -- and are those involved with the 20 MSO, 17 offsites? 21 A Not all 17 are. Probably about 13 or 14. 22 Q And these -- of the 17 offsite, how many are physician 23 practices? Approximate. 24 A Almost all of them. 25 Q And in what specialty are these physician practices? Can</p>	<p style="text-align: right;">Page 691</p> <p>1 hospital? 2 A Yes. 3 Q Now, you're described the hospital. Can you describe what 4 a physician practice is? Let's use Urology. Describe Urology. 5 Do they -- let me rephrase. Does a physician's practice 6 provide all the same services as a hospital? 7 A No, it does not obviously. 8 Q Okay. What is -- 9 A The -- 10 Q -- a physician practice? 11 A The -- most of the physician practice, specifically 12 Urology, provides patient care -- ambulatory patient care. So 13 mostly consults. Urology could be self-referral or from 14 another physician, a primary care physician. 15 Patient comes in and is referred to a Urologist for 16 whatever problem it is and the Urologist assesses the patient's 17 condition. And at that point decides what testing needs to be 18 done, if testing needs to be done, and all procedures. 19 Authorizations are done at that site, referrals are done at 20 that site. 21 Q And what kind of procedures are done in the Urology 22 practice at the office? 23 A Some cystoscopies. If I can list it as simple procedures, 24 that aren't complicated. 25 Q I'm not asking for a technical --</p>
<p style="text-align: right;">Page 690</p> <p>1 you give some example? 2 A Most are primary care. Some have subspecialties that 3 practice within. So it may be surgery, it may be Pediatrics, 4 Neurology, GI. 5 Q And would it be accurate that your responsibility is to 6 assist these practices in administering their services? 7 A Yes. 8 Q And what kind of regulatory issues do you give advice on? 9 A Mostly patient safety issues. Anything that comes from 10 the Department of Health. 11 Q Department of Health issues regulations? 12 A Yes. 13 Q And some of those regulations apply to physicians? 14 A Yes. 15 Q Okay. Some apply to hospitals? 16 A Yes, they do. 17 Q Are there different regulations for physicians and 18 hospitals? 19 A Sometimes. Sometimes they cross over. 20 Q Would it be fair to say that the MSO's role is to make it 21 easier for the physicians to practice medicine and run their 22 practices? 23 A Yes. Absolutely. 24 Q And are the -- would it be accurate to say that the MSO 25 does not have any role in terms of the operation of the</p>	<p style="text-align: right;">Page 692</p> <p>1 A No, no. I'm saying not complicated procedures. Any 2 surgeries or procedures that are complicated would be done at 3 the hospital, where there is appropriate support, in case it 4 was needed. They have staff that's needed and all the 5 appropriate people would be at the hospital. 6 Q And what kind of added staff and abilities are there at 7 the hospital, so they can handle more complicated procedures? 8 And again, I'm asking generally. 9 A Oh, we have OR techs, we have a group of 10 anesthesiologists, we have other physicians from other 11 services. It doesn't have to be a Urologist. It could be a 12 vascular surgeon who assists on a case. 13 They just have more tools there and support than if you're 14 at a doctor's office. And they also have equipment that you 15 don't have at the physician office. They have ICU beds in case 16 -- 17 Q What are ICU beds for the uninitiated? What's an ICU? 18 A Oh, I'm sorry. Intensive Care Unit. In case they need 19 that level of care -- 20 Q Okay. And what -- 21 A -- they would be -- 22 Q -- level of care is provided in an Intensive Care Unit? 23 A The highest level of care. 24 Q And does the hospital have step down beds? 25 A Yes, it does.</p>

<p style="text-align: right;">Page 693</p> <p>1 Q What are step down beds?</p> <p>2 A Step down beds are beds that are used when a patient is</p> <p>3 determined that they no longer need the level of care in an ICU</p> <p>4 or an Intensive Care Unit. They are stepped down to the next</p> <p>5 level of care, which is not a med-surg floor where there's</p> <p>6 regular staffing nurse ratios. This is a higher level of care.</p> <p>7 Q NYM Medical Associates, are those physician practices?</p> <p>8 A Yes.</p> <p>9 Q And is NYM Medical Associates separate from the hospital?</p> <p>10 A Yes.</p> <p>11 Q And what is physician outreach that you're response -- I'm</p> <p>12 looking at the box on --</p> <p>13 A Yeah, I know. I know what you're look -- so I do some</p> <p>14 recruiting for physicians, you know, in my -- part of my</p> <p>15 responsibilities. So it's considered outreach.</p> <p>16 Q And that's just for M -- medical doctor physicians?</p> <p>17 A Yes.</p> <p>18 MR. FRANK: I have no further questions.</p> <p>19 HEARING OFFICER SCHAEFER: <small>That's right. Yes, please.</small></p> <p>20 ask you some questions.</p> <p>21 THE WITNESS: Sure.</p> <p>22 HEARING OFFICER SCHAEFER: <small>That's correct. Yes.</small></p> <p>23 talked a little bit before about how you meet with the office</p> <p>24 managers and go over, you know, some -- any issues. You meet -</p> <p>25 - you said you meet with them monthly, is that correct?</p>	<p style="text-align: right;">Page 695</p> <p>1 HEARING OFFICER SCHAEFER: Okay.</p> <p>2 THE WITNESS: That would be, I guess, a Joanne Kennedy</p> <p>3 question.</p> <p>4 HEARING OFFICER SCHAEFER: <small>That's correct. Yes.</small></p> <p>5 approach you and say MSO isn't providing -- we need more from</p> <p>6 MSO or we need --</p> <p>7 THE WITNESS: No, they have not.</p> <p>8 HEARING OFFICER SCHAEFER: <small>That's correct. Yes.</small></p> <p>9 If you know -- again, you may not. But does MSO ever send</p> <p>10 patients to a hospital other than New York Methodist for out --</p> <p>11 like for -- if they need like one these more serious operations</p> <p>12 or surgeries?</p> <p>13 MR. FRANK: Objection to form.</p> <p>14 HEARING OFFICER SCHAEFER: Okay.</p> <p>15 MR. FRANK: MSO doesn't -- are you asking about the</p> <p>16 physicians?</p> <p>17 HEARING OFFICER SCHAEFER: <small>That's right. Okay.</small></p> <p>18 THE WITNESS: That's what I was just --</p> <p>19 HEARING OFFICER SCHAEFER: That's --</p> <p>20 THE WITNESS: -- going to ask.</p> <p>21 HEARING OFFICER SCHAEFER: <small>That's correct. Yes.</small></p> <p>22 physicians ever send patients to other hospitals for surgery,</p> <p>23 other than New York Methodist, if you know?</p> <p>24 THE WITNESS: Yes.</p> <p>25 HEARING OFFICER SCHAEFER: <small>That's correct. Yes.</small></p>
<p style="text-align: right;">Page 694</p> <p>1 THE WITNESS: Yes.</p> <p>2 HEARING OFFICER SCHAEFER: <small>That's correct. Yes.</small></p> <p>3 the doctors about the practice?</p> <p>4 THE WITNESS: On occasion, if they ask for a meeting.</p> <p>5 HEARING OFFICER SCHAEFER: <small>That's correct. Yes.</small></p> <p>6 Urology department --</p> <p>7 THE WITNESS: Yeah.</p> <p>8 HEARING OFFICER SCHAEFER: <small>That's correct. Yes.</small></p> <p>9 practice, is there -- is Dr. Grunberg (sic) the main point of</p> <p>10 contact in that office?</p> <p>11 THE WITNESS: Yes.</p> <p>12 HEARING OFFICER SCHAEFER: <small>That's correct. Yes.</small></p> <p>13 issue with -- the MSO, it seems to be -- and again, I'm going</p> <p>14 to let -- I'm just trying to lay this out in a way that will</p> <p>15 get out what I'm trying to ask. So feel free to step in, if</p> <p>16 I'm mischaracterizing this. Okay?</p> <p>17 But the MSO operates to help the physicians run the</p> <p>18 practice and that there's this -- the practice itself has -- is</p> <p>19 made up of doctors who have their own -- it's their private</p> <p>20 practice essentially. So is there some -- how frequently does</p> <p>21 MSO have to interact with the doctors that are running the</p> <p>22 practice, from an administrative standpoint?</p> <p>23 THE WITNESS: From --</p> <p>24 HEARING OFFICER SCHAEFER: <small>If you know.</small></p> <p>25 THE WITNESS: I don't know.</p>	<p style="text-align: right;">Page 696</p> <p>1 other hospitals?</p> <p>2 THE WITNESS: I do not know.</p> <p>3 HEARING OFFICER SCHAEFER: <small>That's correct. Yes.</small></p> <p>4 a little about this Article 28 thing, which I'm not -- again,</p> <p>5 I'm not super familiar with it. So I'm going to ask you to</p> <p>6 just give me some more information, if you know. You answered</p> <p>7 a question for Mr. Frank that the physician's practice is not</p> <p>8 part of the article -- is not covered by -- the physician's</p> <p>9 practice is not covered by the Article 28 of the hospital. But</p> <p>10 in a question from Ms. Wilcox you said that the MSO is covered</p> <p>11 by the Article 28 of the hospital.</p> <p>12 MR. FRANK: Objection. I don't -- I think she said Wound</p> <p>13 Care.</p> <p>14 THE WITNESS: Wound Care.</p> <p>15 HEARING OFFICER SCHAEFER: <small>Wound Care.</small></p> <p>16 MR. FRANK: Not --</p> <p>17 HEARING OFFICER SCHAEFER: Okay.</p> <p>18 MR. FRANK: -- the MSO.</p> <p>19 HEARING OFFICER SCHAEFER: <small>That's correct. Yes.</small></p> <p>20 THE WITNESS: Just --</p> <p>21 HEARING OFFICER SCHAEFER: <small>That's correct. Yes.</small></p> <p>22 difference --</p> <p>23 THE WITNESS: So an --</p> <p>24 HEARING OFFICER SCHAEFER: <small>That's correct. Yes.</small></p> <p>25 THE WITNESS: -- Article 28 is actually an extension of</p>

<p style="text-align: right;">Page 697</p> <p>1 the hospital's license to practice outside of the hospital 2 campus. So it's actually called an extension clinic, an 3 extension of the hospital's clinic. 4 HEARING OFFICER SCHAEFER: Okay. 5 THE WITNESS: So you are -- now need to abide by certain 6 regulations and rules. There are different -- you know, a 7 little tighter regulations with that. 8 HEARING OFFICER SCHAEFER: <small>they decide who to</small> 9 extension include the Wound Care and the Urology -- 10 THE WITNESS: No, no. 11 HEARING OFFICER SCHAEFER: <small>-- or just --</small> 12 THE WITNESS: Just Wound Care. 13 HEARING OFFICER SCHAEFER: <small>are wound care, they do</small> 14 Urology? 15 THE WITNESS: Right. 16 HEARING OFFICER SCHAEFER: <small>...just what, urology</small> 17 would the physician's practice in Urology have its own article, 18 or have its own license to operate or -- 19 THE WITNESS: They don't need a license to -- 20 HEARING OFFICER SCHAEFER: <small>They don't --</small> 21 THE WITNESS: -- operate. 22 HEARING OFFICER SCHAEFER: <small>...need a license?</small> 23 THE WITNESS: No. 24 HEARING OFFICER SCHAEFER: <small>they, they do not need one</small> 25 by --</p>	<p style="text-align: right;">Page 699</p> <p>1 MR. FRANK: Objection to form. 2 THE WITNESS: I don't know. 3 HEARING OFFICER SCHAEFER: <small>they, they don't know --</small> 4 don't know. Alright. And you're right, the form was bad. 5 Okay. I'm just checking to make sure I have all the questions. 6 Have you ever been involved in any discussions about whether to 7 discipline an employee in either Wound Care or Urology? 8 MR. FRANK: Can we have a timeframe? 21st Century or -- 9 HEARING OFFICER SCHAEFER: <small>...discussing it</small> 10 since 2012. 11 MR. FRANK: I would object to the -- I think -- 12 HEARING OFFICER SCHAEFER: <small>...discussing it, then</small> 13 part of the conversations. 14 THE WITNESS: Usually they notify me that -- if they're 15 terminating someone. 16 HEARING OFFICER SCHAEFER: Okay. 17 THE WITNESS: Again -- 18 HEARING OFFICER SCHAEFER: So it's -- 19 THE WITNESS: And it -- an advisory. It's not -- I am not 20 making that decision to terminate -- 21 HEARING OFFICER SCHAEFER: <small>...the decision --</small> 22 THE WITNESS: -- there. 23 HEARING OFFICER SCHAEFER: <small>...decide who to</small> 24 then they're approaching you -- 25 THE WITNESS: Yes.</p>
<p style="text-align: right;">Page 698</p> <p>1 THE WITNESS: The Article 28 -- 2 HEARING OFFICER SCHAEFER: <small>The Article --</small> 3 THE WITNESS: -- no. 4 HEARING OFFICER SCHAEFER: <small>...they, they do not</small> 5 28 is extended to the clinic, do you have to put a name on the 6 extension, sort of like a permit, that would have a name for 7 the location -- 8 THE WITNESS: It has the location. 9 HEARING OFFICER SCHAEFER: <small>they, they do not --</small> 10 - do you know -- have you -- I don't if you -- 11 THE WITNESS: It -- 12 HEARING OFFICER SCHAEFER: <small>If it's a --</small> 13 THE WITNESS: It's on the -- 14 HEARING OFFICER SCHAEFER: <small>physical document for</small> 15 THE WITNESS: It's -- there is a physical document that I 16 believe it says the address and the extension clinic. 17 HEARING OFFICER SCHAEFER: <small>Okay. So the --</small> 18 THE WITNESS: That's what it says. 19 HEARING OFFICER SCHAEFER: <small>...extension, then --</small> 20 Wound Care? Or would it say 1 Prospect -- 21 THE WITNESS: I don't know. 22 HEARING OFFICER SCHAEFER: <small>...just what, urology</small> 23 to reveal my level of knowledge here. But doctor -- can -- 24 doctors can have multiple -- do any of the doctors have 25 multiple privileges at multiple hospitals?</p>	<p style="text-align: right;">Page 700</p> <p>1 HEARING OFFICER SCHAEFER: <small>...they, they do not</small> 2 we're doing? Okay. Just to clarify, you shook your head. You 3 have to say yes. 4 THE WITNESS: I'm sorry. 5 HEARING OFFICER SCHAEFER: <small>No, that's --</small> 6 THE WITNESS: Okay, yes. 7 HEARING OFFICER SCHAEFER: <small>...they, they do not</small> 8 it's a -- it's an audio thing. 9 THE WITNESS: Okay. 10 HEARING OFFICER SCHAEFER: <small>...they, they do not</small> 11 that sort of the same thing as the hiring? They decide who to 12 hire and you just sign off on it? 13 THE WITNESS: Yes. 14 HEARING OFFICER SCHAEFER: <small>...they, they do not</small> 15 decision on either hiring, or discipline or something like 16 that? 17 THE WITNESS: No, I have not. 18 HEARING OFFICER SCHAEFER: <small>...they, they do not</small> 19 salaries, who -- do you have any role in setting salaries for 20 the -- 21 THE WITNESS: No -- 22 HEARING OFFICER SCHAEFER: <small>...employees?</small> 23 THE WITNESS: -- I do not. 24 HEARING OFFICER SCHAEFER: <small>...they, they do not</small> 25 Kennedy discussed like raises and things like that with you?</p>

Page 701	Page 703
<p>1 THE WITNESS: She notifies me of -- you know, if there's a 2 question or someone is asking for a raise, she'll notify me of 3 that or advise me. 4 HEARING OFFICER SCHAEFER: <small>She notifies me of that.</small> 5 decision? 6 THE WITNESS: She does. 7 HEARING OFFICER SCHAEFER: <small>She notifies me of that.</small> 8 some testimony early in the hearing about an employee who was 9 hired recently just after a raise went into effect. Do you 10 recall that? 11 THE WITNESS: Yes, I do. 12 HEARING OFFICER SCHAEFER: <small>She notifies me of that.</small> 13 who the employee was? 14 THE WITNESS: No. 15 HEARING OFFICER SCHAEFER: <small>She notifies me of that.</small> 16 they consult -- did Ms. Kennedy consult with you about that? 17 THE WITNESS: Yeah, the office as well. 18 HEARING OFFICER SCHAEFER: Okay. 19 THE WITNESS: And again, I said okay. Not that I said 20 okay. I did not object to them giving her that raise. 21 HEARING OFFICER SCHAEFER: <small>She notifies me of that.</small> 22 any more questions. They might ask you some follow up 23 questions. 24 THE WITNESS: Okay. 25 HEARING OFFICER SCHAEFER: <small>Ms. Wilcox?</small></p>	<p>1 Q Okay. And the Urology clinic is separate from the Urology 2 practice -- 3 A Yes, it is. 4 Q -- 1 Prospect Park West? 5 A Yeah. 6 Q Okay. But the doctors who are in the practice -- a 7 Urology practice also work at the Urology clinic -- 8 MR. FRANK: Objection as to relevance, what physicians do. 9 HEARING OFFICER SCHAEFER: <small>Objection.</small> 10 just -- 11 MS. WILCOX: I was just asking do the doctors who work at 12 the practice also work at the Urology clinic that's part of the 13 hospital? 14 MR. FRANK: What relevance is there to what physicians do? 15 HEARING OFFICER SCHAEFER: <small>Objection.</small> 16 answer already what -- 17 MS. WILCOX: So -- 18 HEARING OFFICER SCHAEFER: <small>Objection.</small> 19 MS. WILCOX: Let me do the -- 20 HEARING OFFICER SCHAEFER: <small>Objection.</small> 21 answer that question. 22 MS. WILCOX: Okay. 23 BY MS. WILCOX: 24 Q So do the pay -- do patients from New York Methodist 25 Hospital get referred to Urology practice?</p>
Page 702	Page 704
<p>1 MS. WILCOX: Yeah. 2 REDIRECT EXAMINATION 3 BY MS. WILCOX: 4 Q The Article 28, that's -- that license is -- or operating 5 certificate is issued to the hospital, is that correct? 6 A Yes. 7 Q And when -- and the hospital applied to extend its license 8 with -- to -- for the wound and -- Wound Care and Hyperbaric 9 Treatment Center? 10 A Yes. 11 Q So that license is still a New York Methodist Hospital 12 license, is that correct? 13 A They're on our operating certificate. 14 Q Yeah. Okay. 15 HEARING OFFICER SCHAEFER: <small>That's a state license or</small> 16 federal? 17 THE WITNESS: State. 18 HEARING OFFICER SCHAEFER: <small>State. Okay. Thank you.</small> 19 MS. WILCOX: It's issued by the New York State Department 20 of Health? 21 THE WITNESS: Yes. 22 BY MS. WILCOX: 23 Q Now with regards to patients, many -- at the hospital 24 there a Urology clinic? 25 A Yes, there is.</p>	<p>1 A From? 2 Q From New York Methodist Hospital. 3 A From the emergency room? 4 Q Yes or the -- 5 A To the -- 6 Q To -- 7 A They get -- no one gets referred to the Urology clinic. 8 Usually patients are told to call a number and there's a 9 physician referral system. If they're going to their private 10 practice, maybe someone tells them who to go to. But, you 11 know, we don't direct patients, except to say if you want to 12 make an appointment with the Urology clinic. 13 Q But if a patient is being seen at Urology clinic and they 14 require a follow up, they could be referred to the Urology 15 practice at -- 16 A I don't -- 17 Q -- 1 Prospect -- 18 A -- know. I can't speak to that. 19 HEARING OFFICER SCHAEFER: <small>Is it out of this or this</small> 20 market question? Is it that -- I'm asking, because I don't -- 21 I want to clarify. I think it's important to clarify. So when 22 -- if someone checks in with a urological issue and they are 23 seen in the emergency room -- 24 THE WITNESS: Right. 25 HEARING OFFICER SCHAEFER: <small>Objection.</small></p>

<p style="text-align: right;">Page 705</p> <p>1 a follow up, but the -- are you saying like but the patient</p> <p>2 ultimately gets to decide what practice they go follow up in?</p> <p>3 THE WITNESS: Yes.</p> <p>4 HEARING OFFICER SCHAEFER: <small>...okay, alright</small></p> <p>5 one option?</p> <p>6 THE WITNESS: Yes.</p> <p>7 HEARING OFFICER SCHAEFER: <small>Okay, Alright.</small></p> <p>8 BY MS. WILCOX:</p> <p>9 Q And with regard to Wound Care, are patients referred from</p> <p>10 the emergency room of the hospital to the Wound Care and</p> <p>11 Hyperbaric Treatment Center?</p> <p>12 A I don't know. I can't say positively.</p> <p>13 Q Is Wesley House part of New York Methodist Hospital?</p> <p>14 A Yes.</p> <p>15 Q Is that where Employee Health is?</p> <p>16 A Yes.</p> <p>17 Q Now, you mentioned -- you were asked about the 9th Street</p> <p>18 office. Is that where New York Methodist human resources</p> <p>19 department is?</p> <p>20 A Yes.</p> <p>21 Q Okay. So you were also asked in Union 36 -- if you could</p> <p>22 turn to the outpatient guide? And you were -- the first --</p> <p>23 actually, the first -- the pages that's following the cover and</p> <p>24 second, third and forth page, those are in fact advertisements</p> <p>25 that were placed in the outpatient?</p>	<p style="text-align: right;">Page 707</p> <p>1 HEARING OFFICER SCHAEFER: <small>...that what it says.</small></p> <p>2 MS. WILCOX: Yeah.</p> <p>3 HEARING OFFICER SCHAEFER: <small>...that what it says.</small></p> <p>4 needs to testify that that's what it says.</p> <p>5 BY MS. WILCOX:</p> <p>6 Q And where it says there are offices at 1 Prospect Park</p> <p>7 West, that would -- at Grand Army Plaza, that would also</p> <p>8 include the practices at that location?</p> <p>9 A Yes, including Pediatrics and the Spine Center.</p> <p>10 Q Okay. As well as Wound Care and --</p> <p>11 A Yes.</p> <p>12 Q -- Urology?</p> <p>13 A Uh-huh.</p> <p>14 Q Yes?</p> <p>15 A Yes.</p> <p>16 Q Okay.</p> <p>17 A Sorry.</p> <p>18 Q Do you know what NYM Associates is? NYM Medical</p> <p>19 Associates.</p> <p>20 A It's -- the name is do business as. It's the physician</p> <p>21 practices.</p> <p>22 Q I mean do you know whether it's -- you said -- you</p> <p>23 testified it's separate from the hospital. Do you know whether</p> <p>24 it's incorporated as an incorporated entity?</p> <p>25 MR. FRANK: Objection as to relevance.</p>
<p style="text-align: right;">Page 706</p> <p>1 A I assume so.</p> <p>2 Q Okay. I mean looking at the bottom of the page it says --</p> <p>3 HEARING OFFICER SCHAEFER: <small>...that what it says.</small></p> <p>4 MS. WILCOX: Yeah. At the bottom --</p> <p>5 HEARING OFFICER SCHAEFER: <small>...that what it says.</small></p> <p>6 crafting --</p> <p>7 THE WITNESS: No, I did not.</p> <p>8 HEARING OFFICER SCHAEFER: <small>...that what it says.</small></p> <p>9 MS. WILCOX: Okay.</p> <p>10 HEARING OFFICER SCHAEFER: <small>...that what it says.</small></p> <p>11 BY MS. WILCOX:</p> <p>12 Q If you could look at page 20 of that same document, Union</p> <p>13 exhibit 36?</p> <p>14 A Page 20.</p> <p>15 Q Page 20.</p> <p>16 A Uh-huh.</p> <p>17 Q Okay. So where it says "where is the hospital?" Now that</p> <p>18 includes in fact the medical office pavilion at 263 7th Avenue?</p> <p>19 MR. FRANK: Objection, the document speaks for itself.</p> <p>20 HEARING OFFICER SCHAEFER: <small>...that what it says.</small></p> <p>21 -</p> <p>22 MR. FRANK: Okay.</p> <p>23 HEARING OFFICER SCHAEFER: <small>...that what it says.</small></p> <p>24 --</p> <p>25 MS. WILCOX: Okay.</p>	<p style="text-align: right;">Page 708</p> <p>1 HEARING OFFICER SCHAEFER: <small>...that what it says.</small></p> <p>2 building. So it's in evidence. We've seen the picture. So I</p> <p>3 think it is relevant --</p> <p>4 THE WITNESS: No, I don't know.</p> <p>5 HEARING OFFICER SCHAEFER: <small>...that what it says.</small></p> <p>6 know. That's --</p> <p>7 BY MS. WILCOX:</p> <p>8 Q With regard to recruiting, you said you have some</p> <p>9 responsibility in terms of recruiting doctors?</p> <p>10 A Uh-huh.</p> <p>11 Q Okay. And that -- does that also include recruiting</p> <p>12 doctors for the physician practices?</p> <p>13 MR. FRANK: Objection, relevance. This case does not</p> <p>14 involve physician practices in the least.</p> <p>15 MS. WILCOX: It -- well --</p> <p>16 HEARING OFFICER SCHAEFER: Okay.</p> <p>17 MR. FRANK: Recruiting of --</p> <p>18 HEARING OFFICER SCHAEFER: <small>Alright.</small></p> <p>19 MR. FRANK: -- physicians is not an issue that I can --</p> <p>20 MS. WILCOX: The question was asked by counsel. And we</p> <p>21 have the right to ask the follow up question.</p> <p>22 HEARING OFFICER SCHAEFER: <small>...that what it says.</small></p> <p>23 questions on this area, but I do -- if -- I think it's a</p> <p>24 relevant question.</p> <p>25 THE WITNESS: Could you repeat the question?</p>

<p style="text-align: right;">Page 709</p> <p>1 MS. WILCOX: Yeah. Do you have any responsibility, in 2 terms of recruiting physicians for physician practices? 3 THE WITNESS: Yes. 4 BY MS. WILCOX: 5 Q And does that include both Urology and Wound Care? 6 A Not specifically, no. 7 Q But any -- but you -- that could include Urology and Wound 8 Care? 9 MR. FRANK: Objection. 10 MS. WILCOX: If you -- 11 MR. FRANK: This case is not -- 12 HEARING OFFICER SCHAEFER: I think -- 13 MR. FRANK: -- about -- 14 HEARING OFFICER SCHAEFER: Yeah. 15 MR. FRANK: -- how we get doctors. 16 HEARING OFFICER SCHAEFER: I think -- I think about -- 17 answered the question. 18 MS. WILCOX: I have nothing further. 19 HEARING OFFICER SCHAEFER: I think -- do you have -- 20 further -- 21 MR. FRANK: I have -- 22 HEARING OFFICER SCHAEFER: -- questions? 23 MR. FRANK: -- no further question. 24 HEARING OFFICER SCHAEFER: Okay. 25 MR. FRANK: Thank you.</p>	<p style="text-align: right;">Page 711</p> <p>1 MS. WILCOX: It's, I'm sorry, dated 2013 and it appears 2 that they filed it in 2014. 3 HEARING OFFICER SCHAEFER: Okay. 4 MS. WILCOX: This is the only that we have. And, you 5 know, we did subpoena other -- we did subpoena documents and we 6 have yet to receive anything. So fortunately we do have this 7 document to produce. 8 HEARING OFFICER SCHAEFER: This is the only document? 9 MR. FRANK: Objection on grounds of relevance. 10 HEARING OFFICER SCHAEFER: I think -- 11 -- yeah. 12 MS. WILCOX: Yeah. There -- 13 HEARING OFFICER SCHAEFER: What's the document? 14 MS. WILCOX: This document is relevant, with respect to 15 the issues in this case. There is reference to the Wound Care 16 and Hyperbaric Chamber Clinic on page 65. It's referencing the 17 fact that it's NYM extension clinic at 1 Prospect Park West. 18 And that's one of the facilities that are licensed, registered 19 or similarly recognized as a hospital facility. 20 Additionally, on -- let me see what number page this -- 21 it's page two, moving backwards. I mean moving forward with 22 this document. Where there is reference to the fact that MSO 23 of Kings County, LLC -- I'm sorry, page 104. Excuse me. At 24 the bottom right, page 104. MSO of Kings County, LLC addresses 25 506 6th Street, Brooklyn, New York.</p>
<p style="text-align: right;">Page 710</p> <p>1 UNIDENTIFIED SPEAKER: Thank you. 2 HEARING OFFICER SCHAEFER: Thank you very much. 3 THE WITNESS: Thank you. 4 HEARING OFFICER SCHAEFER: You're all done. 5 THE WITNESS: Here. 6 HEARING OFFICER SCHAEFER: Everything is done. 7 THE WITNESS: Okay. 8 HEARING OFFICER SCHAEFER: You're all done. 9 water though. 10 THE WITNESS: Thank you. 11 MR. FRANK: Take a short recess? 12 HEARING OFFICER SCHAEFER: On the record -- 13 the record. 14 (Whereupon, a brief recess was taken) 15 HEARING OFFICER SCHAEFER: On the record. 16 Alright. We're on the record. Alright. So the Union -- 17 what is this? The Union has asked me to mark what's Union 37. 18 What is this? 19 MS. WILCOX: Yeah, this is the required reporting by New 20 York Methodist Hospital that has been filed with the New York 21 State Office of the Attorney General. And attached to that, 22 which is also required, is their financial filing. And we are 23 offering this document as Union 37. 24 (Union's U-37 identified) 25 HEARING OFFICER SCHAEFER: On the record --</p>	<p style="text-align: right;">Page 712</p> <p>1 And it says the primary activity is staffing. And that 2 100% of ownership is by New York Methodist Hospital. And it's 3 under the category of identification of related organizations 4 taxable as a corporation or trust. And that information is 5 completed there. 6 Additionally, on page 106 there is reference to the fact 7 that -- reference to MSO of Kings County, LLC, where there's 8 reference to -- references made to reimbursement pay to related 9 organizations for expenses. And there's a dollar amount 10 showing what that cost is. 11 And additionally on the consolidated -- the notes -- the 12 consolidated financial statement, which is page -- it's going 13 toward the back of the document, page eight. There's reference 14 to the fact that in April of 2010 Methodist, as the sole 15 member, formed MSO of Kings County, LLC ("MSO"), a management 16 service organization established to provide administrative 17 personnel to the various professional corporations. MSO is 18 included in Methodist's consolidated financial statement. 19 HEARING OFFICER SCHAEFER: On the record -- 20 Frank? 21 MR. FRANK: No objection to the document. 22 HEARING OFFICER SCHAEFER: On the record -- 23 coming into evidence, is received in evidence. 24 (Union's U-37 received in evidence) 25 MR. FRANK: Okay.</p>

Page 713	Page 715
<p>1 HEARING OFFICER SCHAEFER: <small>(Any other documents?)</small></p> <p>2 MS. WILCOX: Yes.</p> <p>3 HEARING OFFICER SCHAEFER: <small>(You heard if you do that)</small></p> <p>4 Barry's ears go -- yeah. Did you want to add something, Mr.</p> <p>5 Frank?</p> <p>6 MR. FRANK: I was going to say that I do not believe this</p> <p>7 document is relevant, but since it's going to come in anyway</p> <p>8 there's no point in arguing about it. This 200 page document</p> <p>9 contains a lot of information that has nothing to do with this</p> <p>10 case.</p> <p>11 HEARING OFFICER SCHAEFER: <small>(Any other documents?)</small></p> <p>12 in evidence.</p> <p>13 MS. WILCOX: And I'd like to have this marked as Union 38.</p> <p>14 It's the annual report New York Methodist Hospital, 2014 to</p> <p>15 2015. That was on the -- taken off the website of New York</p> <p>16 Methodist Hospital.</p> <p>17 (Union's U-38 identified)</p> <p>18 HEARING OFFICER SCHAEFER: <small>(This is a great picture)</small></p> <p>19 What's the relevance?</p> <p>20 MS. WILCOX: The relevance is that there is reference to</p> <p>21 the services that are provided by the hospital, as well as the</p> <p>22 fact that they make reference to their medical staff, who are -</p> <p>23 - who -- starting on page six -- 26. And there are references</p> <p>24 to the doctors who have been named in -- at both Wound Care and</p> <p>25 Urology --</p>	<p>1 MS. WILCOX: Yeah.</p> <p>2 HEARING OFFICER SCHAEFER: Well --</p> <p>3 MS. WILCOX: I mean, you know, and the way the hospital</p> <p>4 describes itself on page 36 of the document, you know,</p> <p>5 obviously we know that there's an issue -- we don't believe</p> <p>6 it's an issue, but the -- it -- the fact that the hospital is -</p> <p>7 - it says that it maintains satellite outpatient health centers</p> <p>8 in facilities through the Borough, that's part of what they</p> <p>9 define themselves as being part of the hospital. So we are --</p> <p>10 the Union, you know, believes this is -- the document was</p> <p>11 prepared by the hospital describing what their services are.</p> <p>12 HEARING OFFICER SCHAEFER: Okay.</p> <p>13 MS. WILCOX: And if you note --</p> <p>14 HEARING OFFICER SCHAEFER: Alright.</p> <p>15 THE WITNESS: -- on that page it lists what's in those --</p> <p>16 what's part of their New York Methodist Park Slope Campus. It</p> <p>17 outlines what the two -- it does include the centers. That's</p> <p>18 what we're referring to as the subject of this hearing.</p> <p>19 HEARING OFFICER SCHAEFER: <small>(Any other documents?)</small></p> <p>20 you want to comment?</p> <p>21 MR. FRANK: Object on the grounds of relevance.</p> <p>22 HEARING OFFICER SCHAEFER: <small>(Any other documents?)</small></p> <p>23 and it'll be given the weight that it's due.</p> <p>24 (Union's U-38 received in evidence)</p> <p>25 MS. WILCOX: I'd like to have this marked as Union 39.</p>
Page 714	Page 716
<p>1 HEARING OFFICER SCHAEFER: <small>(Is this that address --)</small></p> <p>2 MS. WILCOX: I mean I can go through each of the names if</p> <p>3 you --</p> <p>4 HEARING OFFICER SCHAEFER: <small>(Any other documents?)</small></p> <p>5 what you're saying.</p> <p>6 MS. WILCOX: Yeah. All that. Yeah. And it describes</p> <p>7 what the services --</p> <p>8 HEARING OFFICER SCHAEFER: <small>(Any other documents?)</small></p> <p>9 documents working at the site are listed in a report to the</p> <p>10 community?</p> <p>11 MS. WILCOX: Yeah. The medical staff.</p> <p>12 HEARING OFFICER SCHAEFER: <small>(Any other documents?)</small></p> <p>13 venturing a guess that Mr. Frank is going to say that the</p> <p>14 doctors -- and I think this is important and I'd like your</p> <p>15 position on this Ms. Wilcox. The doctors don't work for MSO.</p> <p>16 We've established that.</p> <p>17 MS. WILCOX: That's correct --</p> <p>18 HEARING OFFICER SCHAEFER: <small>(Any other documents?)</small></p> <p>19 been testimony that a lot of the doctors work at New York</p> <p>20 Methodist, in addition to working at the physician's practice.</p> <p>21 So how do we know that -- is there some distinction in this</p> <p>22 about MSOs versus --</p> <p>23 MS. WILCOX: No, there's no -- I don't believe -- I have</p> <p>24 not seen any reference to MSO here.</p> <p>25 HEARING OFFICER SCHAEFER: Okay.</p>	<p>1 And this is a patient guide to New York Methodist Hospital.</p> <p>2 And it references the services that are provided by the</p> <p>3 hospital and particularly there is listed on page 16 --</p> <p>4 (Union's U-39 identified)</p> <p>5 HEARING OFFICER SCHAEFER: <small>(Excluded item. Sorry)</small></p> <p>6 MR. FRANK: Bless you.</p> <p>7 MS. WILCOX: -- New York Methodist Hospital services</p> <p>8 listing, which includes both Urology as well as the hyperbaric</p> <p>9 chamber Wound Care, both listed at 1 Prospect Park West.</p> <p>10 HEARING OFFICER SCHAEFER: <small>(Any other documents?)</small></p> <p>11 MS. WILCOX: 16.</p> <p>12 HEARING OFFICER SCHAEFER: <small>(Any other documents?)</small></p> <p>13 MR. FRANK: I must say there's a very cute picture on page</p> <p>14 17. I'm not sure what it's relevant to.</p> <p>15 HEARING OFFICER SCHAEFER: <small>(Excluded item. Sorry)</small></p> <p>16 Okay. I'm receiving it into evidence. We'll give it the</p> <p>17 weight that it's due. I mean are there more of these? Because</p> <p>18 --</p> <p>19 (Union's U-39 received in evidence)</p> <p>20 MR. FRANK: I mean --</p> <p>21 MS. WILCOX: We have --</p> <p>22 MR. FRANK: -- are the provision -- I mean there's a lot -</p> <p>23 -</p> <p>24 HEARING OFFICER SCHAEFER: <small>(Any other documents?)</small></p> <p>25 note that like we're putting patient guides for the index</p>

<p style="text-align: right;">Page 717</p> <p>1 essentially. So I just want to -- are there more --</p> <p>2 MS. WILCOX: A few --</p> <p>3 HEARING OFFICER SCHAEFER: <small>-- or is that it?</small></p> <p>4 MS. WILCOX: They're not as thick as what --</p> <p>5 HEARING OFFICER SCHAEFER: <small>Alright.</small></p> <p>6 MS. WILCOX: -- I just gave you.</p> <p>7 MR. FRANK: So the record is clear, I mean got the drift</p> <p>8 that everything is going to come in, but I don't see how this</p> <p>9 has any relevance to a question concerning representation;</p> <p>10 patient guide of the hospital.</p> <p>11 HEARING OFFICER SCHAEFER: <small>Okay.</small></p> <p>12 MS. WILCOX: Union 40. This is a New York Methodist</p> <p>13 Hospital report on Wound Care and Hyperbaric Center. And sets</p> <p>14 forth what the location is and the connection with the</p> <p>15 hospital. So we would offer Union 40.</p> <p>16 (Union's U-40 identified)</p> <p>17 HEARING OFFICER SCHAEFER: <small>Okay. Any objection?</small></p> <p>18 MR. FRANK: The handwritten material, was that put in by</p> <p>19 counsel or --</p> <p>20 HEARING OFFICER SCHAEFER: <small>The what?</small></p> <p>21 MR. FRANK: The handwritten marking on this document.</p> <p>22 MS. WILCOX: No, we're not putting in any handwritten --</p> <p>23 HEARING OFFICER SCHAEFER: <small>And they're in the document.</small></p> <p>24 but those were done by counsel. I'm not --</p> <p>25 MS. WILCOX: Yeah.</p>	<p style="text-align: right;">Page 719</p> <p>1 time? Because I'd like to respond to each offer.</p> <p>2 HEARING OFFICER SCHAEFER: <small>He can't respond --</small></p> <p>3 meant so we could just have them all --</p> <p>4 MS. WILCOX: Okay.</p> <p>5 HEARING OFFICER SCHAEFER: <small>-- in our hands.</small></p> <p>6 MS. WILCOX: Can we just go off the record for moment? So</p> <p>7 we -- while we put these together?</p> <p>8 (Whereupon, a brief recess was taken)</p> <p>9 HEARING OFFICER SCHAEFER: <small>On the record.</small></p> <p>10 MS. WILCOX: These --</p> <p>11 HEARING OFFICER SCHAEFER: <small>Are we --</small></p> <p>12 MS. WILCOX: -- papers --</p> <p>13 HEARING OFFICER SCHAEFER: <small>Hang on.</small></p> <p>14 MS. WILCOX: -- off the New York Methodist website.</p> <p>15 HEARING OFFICER SCHAEFER: <small>You have to sign that.</small></p> <p>16 MS. WILCOX: Oh, I'm sorry. We'd like to offer Union</p> <p>17 exhibit 41, which are print outs of pages from the New York</p> <p>18 Methodist website regarding Wound Care as well as the Urology</p> <p>19 practice --</p> <p>20 HEARING OFFICER SCHAEFER: <small>--- on the meeting.</small></p> <p>21 that's --</p> <p>22 MS. WILCOX: That was just our -- the Union's -- our</p> <p>23 notations on there. We don't have clean copies.</p> <p>24 MR. FRANK: Why don't we make them A, B, C, D and E?</p> <p>25 MS. WILCOX: That's fine. So Union A will -- 41(a) would</p>
<p style="text-align: right;">Page 718</p> <p>1 HEARING OFFICER SCHAEFER: <small>Alright.</small></p> <p>2 MS. WILCOX: Yes.</p> <p>3 HEARING OFFICER SCHAEFER: <small>Any objection?</small></p> <p>4 MR. FRANK: Objection on the grounds of relevance.</p> <p>5 HEARING OFFICER SCHAEFER: <small>Okay. Well, it's -- not --</small></p> <p>6 going to receive in evidence. It's -- particularly considering</p> <p>7 this one is at least limited to the Wound Care Center.</p> <p>8 (Union's U-40 received in evidence)</p> <p>9 MR. FRANK: But I don't believe it has any relevance to</p> <p>10 any of the issues in a representation case hearing.</p> <p>11 HEARING OFFICER SCHAEFER: <small>Okay.</small></p> <p>12 MR. FRANK: I don't think it make any references to</p> <p>13 employees' terms and conditions of employment or anything</p> <p>14 that's normally considered in a representation case.</p> <p>15 MS. WILCOX: We have a standing --</p> <p>16 HEARING OFFICER SCHAEFER: <small>I'm --</small></p> <p>17 MS. WILCOX: -- response that these are -- we believe</p> <p>18 these documents are relevant to the issue, with respect to who</p> <p>19 the Employer is, with respect to the employees in the</p> <p>20 petitioned for unit.</p> <p>21 HEARING OFFICER SCHAEFER: <small>Okay. There's no objection.</small></p> <p>22 evidence. Is it possible that you could just hand us a packet</p> <p>23 and we --</p> <p>24 MS. WILCOX: Yeah. We're doing it now.</p> <p>25 MR. FRANK: Can I suggest we keep doing this one at a</p>	<p style="text-align: right;">Page 720</p> <p>1 be the Wound Care and Hyperbaric Oxygen Therapy.</p> <p>2 HEARING OFFICER SCHAEFER: <small>You, but I don't think --</small></p> <p>3 MS. WILCOX: No?</p> <p>4 HEARING OFFICER SCHAEFER: <small>-- in the order --</small></p> <p>5 MS. WILCOX: Oh, I put --</p> <p>6 HEARING OFFICER SCHAEFER: <small>-- they're in here.</small></p> <p>7 MS. WILCOX: -- them in the wrong order. I'm sorry. I --</p> <p>8 HEARING OFFICER SCHAEFER: <small>It's in the correct order.</small></p> <p>9 41(a) is --</p> <p>10 (Union's U-41(a) identified)</p> <p>11 MR. FRANK: Starts location services.</p> <p>12 MS. WILCOX: Location services.</p> <p>13 HEARING OFFICER SCHAEFER: <small>It's in the directory.com.</small></p> <p>14 directory. C will be find our location, faculty practice. D</p> <p>15 will be Wound Care and Hyperbaric Oxygen Therapy. And E will</p> <p>16 be New York Methodist Hospital Wound Care celebrates success.</p> <p>17 This is a press release. Okay. I'd also note for the record</p> <p>18 that the URLs are at the bottom of each page. Mr. Frank?</p> <p>19 (Union's U-41(b) through (e) identified)</p> <p>20 MR. FRANK: Objection to relevance.</p> <p>21 HEARING OFFICER SCHAEFER: <small>Okay.</small></p> <p>22 MR. FRANK: No objection.</p> <p>23 HEARING OFFICER SCHAEFER: <small>Alright.</small></p> <p>24 MR. FRANK: No objection, except for the handwritten.</p> <p>25 HEARING OFFICER SCHAEFER: <small>Yeah. Nothing about the.</small></p>

Page 721	Page 723
<p>1 handwritten notes should be disregarded, the Union 41 is</p> <p>2 received in evidence.</p> <p>3 (Union's U-41(a) through (e) received in evidence)</p> <p>4 MS. WILCOX: And this -- we'd like to have this marked as</p> <p>5 Union 42, which is a one page document entitled New York State</p> <p>6 Department of State Division of Corporations listing</p> <p>7 information regarding MSO of Kings County.</p> <p>8 (Union's U-42 identified)</p> <p>9 HEARING OFFICER SCHAEFER: <small>Any objection?</small></p> <p>10 MR. FRANK: No objection.</p> <p>11 HEARING OFFICER SCHAEFER: <small>Thank you. Okay.</small></p> <p>12 it?</p> <p>13 (Union's U-42 received in evidence)</p> <p>14 MS. WILCOX: That's it, in terms of documents. And we do</p> <p>15 have an additional witness.</p> <p>16 HEARING OFFICER SCHAEFER: Okay.</p> <p>17 UNIDENTIFIED SPEAKER: <small>I need that other copy of 37.</small></p> <p>18 HEARING OFFICER SCHAEFER: 30 --</p> <p>19 MS. WILCOX: 37?</p> <p>20 UNIDENTIFIED SPEAKER: Yeah.</p> <p>21 HEARING OFFICER SCHAEFER: <small>That's the --</small></p> <p>22 MS. WILCOX: Oh --</p> <p>23 HEARING OFFICER SCHAEFER: <small>Yes. Okay. Thank you.</small></p> <p>24 MR. FRANK: On -- may I make a comment on 42?</p> <p>25 HEARING OFFICER SCHAEFER: Sure.</p>	<p>1 name on the petition.</p> <p>2 MR. KRUEGER: The order rescheduling the hearing has the</p> <p>3 incorrect name and they all do down all down the road --</p> <p>4 HEARING OFFICER SCHAEFER: <small>Thank you. Okay.</small></p> <p>5 combining them and putting the slash between them?</p> <p>6 MR. KRUEGER: Yes.</p> <p>7 HEARING OFFICER SCHAEFER: <small>Thank you. Okay.</small></p> <p>8 MS. WILCOX: Well, that --</p> <p>9 MR. FRANK: And the first petition had a different name on</p> <p>10 it than the second petition.</p> <p>11 HEARING OFFICER SCHAEFER: <small>Thank you. Okay.</small></p> <p>12 MR. FRANK: Petitions --</p> <p>13 HEARING OFFICER SCHAEFER: Let's --</p> <p>14 MR. FRANK: -- plural, by the way.</p> <p>15 HEARING OFFICER SCHAEFER: <small>Yes. Okay. Thank you.</small></p> <p>16 next witness.</p> <p>17 MR. FELSTINER: Christin Gil.</p> <p>18 HEARING OFFICER SCHAEFER: <small>Oh. Right. Okay. Thank you.</small></p> <p>19 your right hand?</p> <p>20 Whereupon,</p> <p>21 CHRISTIN GILL</p> <p>22 Having been first duly sworn, was called as a witness and</p> <p>23 testified herein as follows:</p> <p>24 HEARING OFFICER SCHAEFER: <small>Thank you. Okay.</small></p> <p>25 They're going to ask you some questions. First, I'm going to</p>
Page 722	Page 724
<p>1 MR. FRANK: We on the record?</p> <p>2 HEARING OFFICER SCHAEFER: Yes.</p> <p>3 MR. FRANK: If you look at exhibit 42 it demonstrates that</p> <p>4 the Union, since it offered this document, knows that the name</p> <p>5 of the entity is MSO of Kings County, LLC.</p> <p>6 HEARING OFFICER SCHAEFER: Okay.</p> <p>7 MR. FRANK: And that what it put on the petition was</p> <p>8 knowingly incorrect. And that applies to each case.</p> <p>9 MS. WILCOX: Well, we disagree with that characterization,</p> <p>10 but --</p> <p>11 MR. FRANK: I refer to Union 42.</p> <p>12 HEARING OFFICER SCHAEFER: <small>Okay. Thank you. Okay.</small></p> <p>13 the record that at the outset of the hearing parties stipulated</p> <p>14 to the correct names of -- the parties didn't stipulate, but</p> <p>15 the MSO counsel and the New York Methodist counsel and counsel</p> <p>16 for the Petitioner each stated the correct legal names. And</p> <p>17 any documents that will issue forthwith from the Board will</p> <p>18 reflect the correct legal names as stated on the record by the</p> <p>19 counsel representing those parties.</p> <p>20 MR. FRANK: Right, but I'm referring to the initial --</p> <p>21 HEARING OFFICER SCHAEFER: <small>I understand.</small></p> <p>22 MR. FRANK: -- petition and the second petition that was</p> <p>23 filed in each case --</p> <p>24 HEARING OFFICER SCHAEFER: Okay.</p> <p>25 MR. FRANK: -- that the Union intentionally put the wrong</p>	<p>1 ask you to state and spell your name for the record.</p> <p>2 THE WITNESS: Christin, C-H-R-I-S-T-I-N, Gil, G-I-L-L.</p> <p>3 HEARING OFFICER SCHAEFER: <small>Thank you. Okay.</small></p> <p>4 first name for me again.</p> <p>5 THE WITNESS: C-H-R-I-S-T-I-N.</p> <p>6 HEARING OFFICER SCHAEFER: <small>Thank you. Okay.</small></p> <p>7 MR. FRANK: T-I-N?</p> <p>8 HEARING OFFICER SCHAEFER: <small>Thank you. Okay.</small></p> <p>9 to ask you some questions. One thing I'm going to ask, this is</p> <p>10 a microphone. So just make sure you speak up so the microphone</p> <p>11 --</p> <p>12 THE WITNESS: Sure.</p> <p>13 HEARING OFFICER SCHAEFER: <small>Thank you. Okay.</small></p> <p>14 also so that everyone can hear. Okay, go ahead Ms. Wilcox.</p> <p>15 MS. WILCOX: Mr. Felstiner --</p> <p>16 MR. FELSTINER: I'm going to do it.</p> <p>17 HEARING OFFICER SCHAEFER: <small>Thank you. Okay.</small></p> <p>18 MR. FELSTINER: No problem.</p> <p>19 DIRECT EXAMINATION</p> <p>20 BY MR. FELSTINER:</p> <p>21 Q Mr. Gil, you work at New York Methodist Hospital?</p> <p>22 A Yes.</p> <p>23 Q What is your position?</p> <p>24 A I'm the biomedical technician.</p> <p>25 Q How long have you worked as a biomedical technician at New</p>

Page 725	Page 727
<p>1 York Methodist?</p> <p>2 A Three years.</p> <p>3 Q What department do you work in?</p> <p>4 A Biomedical Engineering.</p> <p>5 Q Where is the Biomedical Engineering department located?</p> <p>6 A The main hospital, 506th Street (sic), basement.</p> <p>7 Q Could you describe your job duties as a biomedical technician?</p> <p>8 MR. FRANK: Objection on the grounds of relevance.</p> <p>9 There's no --</p> <p>10 HEARING OFFICER SCHAEFER: _____</p> <p>11 MR. FRANK: Yes.</p> <p>12 MR. FELSTINER: We're --</p> <p>13 MR. FRANK: Biomedical --</p> <p>14 MR. FELSTINER: -- getting there.</p> <p>15 MR. FRANK: -- Engineering has no relevance to anything in</p> <p>16 the petition.</p> <p>17 HEARING OFFICER SCHAEFER: _____</p> <p>18 inquires -- this actually might be very helpful, because one of</p> <p>19 the inquires that we're trying to figure out is whether there's</p> <p>20 community of interest between the individuals at 1 Prospect</p> <p>21 Park West and between the employees working at the hospital.</p> <p>22 So in terms of containing questioning to that sort of -- those</p> <p>23 sort of issues, I think this is relevant. Go ahead. Or if --</p> <p>24 MR. FELSTINER: Yes. I --</p>	<p>1 MR. FELSTINER: And that's --</p> <p>2 HEARING OFFICER SCHAEFER: So --</p> <p>3 MR. FELSTINER: -- where I'm going with it. I'm just</p> <p>4 laying the foundation for it.</p> <p>5 HEARING OFFICER SCHAEFER: <small>Yeah. Alright.</small></p> <p>6 UNIDENTIFIED SPEAKER: Does he purchase --</p> <p>7 HEARING OFFICER SCHAEFER: _____</p> <p>8 ask him. So let's lay the -- connect it to 1 Prospect Park</p> <p>9 West and then we'll see where we can go here.</p> <p>10 MR. FELSTINER: <small>You service equipment at 1 Prospect Park</small></p> <p>11 West in Brooklyn, New York?</p> <p>12 THE WITNESS: Yes.</p> <p>13 CONTINUED DIRECT EXAMINATION</p> <p>14 BY MR. FELSTINER:</p> <p>15 Q Have you done so since you began as a biomedical</p> <p>16 technician?</p> <p>17 A Yes.</p> <p>18 MR. FRANK: I'm going to object on grounds of relevance.</p> <p>19 Whoever services equipment isn't relevant to any QCR questions</p> <p>20 or any other questions.</p> <p>21 HEARING OFFICER SCHAEFER: _____</p> <p>22 of who the employer of the employees is. Overruled.</p> <p>23 MR. FRANK: On who --</p> <p>24 HEARING OFFICER SCHAEFER: <small>Yes. Alright. Go ahead.</small></p> <p>25 have a standing objection to the line of questioning. I won't</p>
Page 726	Page 728
<p>1 HEARING OFFICER SCHAEFER: Okay.</p> <p>2 MR. FELSTINER: -- also would offer that --</p> <p>3 MR. FRANK: Well, I would just object on the grounds that</p> <p>4 --</p> <p>5 MR. FELSTINER: I'm right in the middle of a sentence.</p> <p>6 Can I finish what I was saying? I believe she indicated that I</p> <p>7 could respond.</p> <p>8 HEARING OFFICER SCHAEFER: <small>Yes, I did.</small></p> <p>9 MR. FELSTINER: Okay. Offer that yesterday we had</p> <p>10 testimony as to the ownership and servicing of equipment at</p> <p>11 these two facilities and the witness testified that she didn't</p> <p>12 know. So we're trying to flesh that out for the Hearing</p> <p>13 Officer, so that we can determine the relationship of the</p> <p>14 operations at those facilities to the operations of the</p> <p>15 hospital. Which is one of the --</p> <p>16 HEARING OFFICER SCHAEFER: Okay.</p> <p>17 MR. FELSTINER: -- factors that the Board considers when</p> <p>18 it's determining --</p> <p>19 HEARING OFFICER SCHAEFER: <small>Alright.</small></p> <p>20 MR. FRANK: That has nothing --</p> <p>21 MR. FELSTINER: -- the employer status. That's one of the</p> <p>22 four factors accepted by the Board as the determination of</p> <p>23 employer status.</p> <p>24 HEARING OFFICER SCHAEFER: Okay.</p> <p>25 MR. FRANK: That has nothing --</p>	<p>1 let you. You do have a standing objection to the line of</p> <p>2 questioning. Alright. Go ahead, Mister --</p> <p>3 MR. FELSTINER: Thank you.</p> <p>4 HEARING OFFICER SCHAEFER: <small>-- Felstiner.</small></p> <p>5 BY MR. FELSTINER:</p> <p>6 Q Do you service equipment in all four of the suites at 1</p> <p>7 Prospect Park West?</p> <p>8 A Yes.</p> <p>9 MR. FRANK: Objection. There is no evidence and this case</p> <p>10 doesn't involve anything other than two petitioned for units.</p> <p>11 HEARING OFFICER SCHAEFER: _____</p> <p>12 the other suites. I'm going to --</p> <p>13 MR. FRANK: But that's not relevant to the petitions --</p> <p>14 HEARING OFFICER SCHAEFER: <small>You --</small></p> <p>15 MR. FRANK: -- before the Hearing Officer.</p> <p>16 HEARING OFFICER SCHAEFER: _____</p> <p>17 were asking questions of Ms. Kennedy yesterday about the suites</p> <p>18 -- the other suites on the floor. So I'm going to limit it to</p> <p>19 continued questions about Urology, but the witness can answer</p> <p>20 very basic questions about those other suites. Go ahead, Mr.</p> <p>21 Felstiner.</p> <p>22 BY MR. FELSTINER:</p> <p>23 Q Okay. Let's focus on have you serviced equipment in the</p> <p>24 Wound Care Center at 1 Prospect Park West?</p> <p>25 A Yes.</p>

Page 729	Page 731
<p>1 Q What medical equipment do they have at the Wound Care 2 Center at 1 Prospect Park West? 3 A They have some examination -- 4 HEARING OFFICER SCHAEFER: <small>... ..</small> 5 have that you service? Let's limit to the -- to equipment that 6 they -- that the witness services or deals with, because I 7 think there's probably other stuff there. 8 THE WITNESS: Basic examination tables, lights, basic 9 examination tools that the medical use. 10 BY MR. FELSTINER: 11 Q And you've serviced that equipment in your time that 12 you've been working as a biomed tech? 13 A Yes. 14 Q What does servicing that equipment involve? 15 A Any broken equipment, frayed cables, bulbs, non- 16 functioning electrical, anything that pretty much makes the 17 equipment work. 18 Q Have you had to service any particular piece of equipment 19 at the Wound Care Center? 20 A Yes. A medication -- a medical table. 21 Q What did you do? 22 A The hydraulics, they went bad. So we had to replace the 23 whole hydraulic system on it. 24 HEARING OFFICER SCHAEFER: <small>... ..</small> 25 THE WITNESS: I work for the engineering. I'm just a</p>	<p>1 THE WITNESS: They place usually a call to my department 2 and the calls get referred to us or whoever is available. In 3 this case it's me, and I'll pick up the phone, and try to 4 consult and see what's the problem. 5 BY MR. FELSTINER: 6 Q Who receives the call? 7 A The -- our coordinator receives the call and then she 8 passes to me in this case. 9 Q What do you do then? 10 A Try to find out what's wrong with the equipment. 11 Q How do you do that? 12 A Basic information over the phone. Inquires about what's 13 wrong, what's happening, what seems to be the problem? Things 14 of that kind of nature. 15 Q And then what happens? 16 A If it needs my attention then I get dispatched to go to 17 that location. 18 HEARING OFFICER SCHAEFER: <small>... ..</small> 19 needs your attention on the physical premises? 20 THE WITNESS: Yes. 21 BY MR. FELSTINER: 22 Q Do you have to fill out any forms? 23 A No. Only when the service is completed we fill out the 24 forms. 25 Q What's the form?</p>
Page 730	Page 732
<p>1 technician. 2 HEARING OFFICER SCHAEFER: Okay. 3 BY MR. FELSTINER: 4 Q When something goes bad at the Wound Care Center, what do 5 they do? 6 MR. FRANK: Objection. I don't think this witness can 7 speak to what Wound Care -- 8 HEARING OFFICER SCHAEFER: <small>... ..</small> 9 rephrase the question to more specifically deal with what this 10 witness knows. 11 MR. FELSTINER: I'm sorry. So you work in the Biomedical 12 Engineering department at the hospital, correct? 13 THE WITNESS: Yes. 14 BY MR. FELSTINER: 15 Q You receive calls from hospital facilities that require 16 servicing of equipment? 17 A Yes. 18 MR. FRANK: Objection to form. 19 HEARING OFFICER SCHAEFER: I agree. 20 BY MR. FELSTINER: 21 Q You receive call -- 22 HEARING OFFICER SCHAEFER: <small>... ..</small> 23 happens. How he just -- how does he know to go there? 24 MR. FELSTINER: <small>... ..</small> How do you -- I thought that's where I was 25 going with this. How do you know to go there?</p>	<p>1 A Pretty much a work order. 2 Q Do you -- 3 HEARING OFFICER SCHAEFER: <small>... ..</small> 4 you're going offsite or staying in the hospital? 5 THE WITNESS: No. 6 HEARING OFFICER SCHAEFER: <small>... ..</small> 7 MR. FELSTINER: What kind of equipment -- sorry, have you 8 serviced equipment at the Urology center? At -- 9 THE WITNESS: Yes. 10 BY MR. FELSTINER: 11 Q -- Urology -- excuse me. The Urology facility located at 12 1 Prospect Park West. 13 A Yes. 14 Q What kind of equipment do they have their? 15 A A vital sign monitor. Usually I service that. And basic 16 examination witness that they have. Lights and that kind of 17 stuff usually breaks down and I service it. 18 HEARING OFFICER SCHAEFER: <small>... ..</small> 19 talking about ceiling lights? 20 THE WITNESS: No, no. Examination lights. 21 HEARING OFFICER SCHAEFER: <small>... ..</small> 22 BY MR. FELSTINER: 23 Q Do they have any equipment associated with the surgical 24 procedures they perform? 25 A Repeat that.</p>

Page 733	Page 735
<p>1 Q Do they have any equipment associated with procedures that</p> <p>2 they perform there?</p> <p>3 A Yes.</p> <p>4 Q What kind of equipment?</p> <p>5 A Electrosurgical equipment they have, which they use to</p> <p>6 perform procedures.</p> <p>7 Q Do you service the electrosurgical equipment?</p> <p>8 A No.</p> <p>9 HEARING OFFICER SCHAEFER: _____</p> <p>10 THE WITNESS: Yeah.</p> <p>11 HEARING OFFICER SCHAEFER: _____</p> <p>12 to do with?</p> <p>13 THE WITNESS: No.</p> <p>14 HEARING OFFICER SCHAEFER: No, okay.</p> <p>15 BY MR. FELSTINER:</p> <p>16 Q At the Wound Care Center do you service the hyperbaric</p> <p>17 chamber?</p> <p>18 A No.</p> <p>19 Q Do you service ultrasound equipment at either location,</p> <p>20 the Wound Care Center or the Urology facility?</p> <p>21 MR. FRANK: Objection to form. No foundation for</p> <p>22 ultrasound equipment.</p> <p>23 MR. FELSTINER: I didn't -- sorry, I didn't hear the</p> <p>24 objection.</p> <p>25 HEARING OFFICER SCHAEFER: He said --</p>	<p>1 MR. FELSTINER: I am going to get there. It has to do</p> <p>2 with the ownership of the equipment and the servicing of the</p> <p>3 equipment.</p> <p>4 HEARING OFFICER SCHAEFER: <small>Okay, I'll allow it.</small></p> <p>5 THE WITNESS: What involves basically is we have to</p> <p>6 inventory all medical equipment at the facility for the</p> <p>7 hospital.</p> <p>8 BY MR. FELSTINER:</p> <p>9 Q What -- so talk me through the process. Inventorying</p> <p>10 equipment, what -- do you have a --</p> <p>11 A When you see a medical --</p> <p>12 Q -- form?</p> <p>13 A -- piece -- yeah. We have a piece of medical equipment</p> <p>14 that we see, we identify it, we tag it, we put a special tag on</p> <p>15 it. Then we write a form identifying that piece of equipment</p> <p>16 and that goes into a database for the hospital.</p> <p>17 Q What is on the tag?</p> <p>18 A A number and a barcode scanner.</p> <p>19 Q Are the tags different for the equipment that you</p> <p>20 inventory at 1 Prospect Park West versus at the main campus of</p> <p>21 the hospital?</p> <p>22 A No, they're the same.</p> <p>23 Q Does every piece of equipment that you service at the 1</p> <p>24 Prospect Park West facilities have tags?</p> <p>25 A Yes.</p>
Page 734	Page 736
<p>1 MR. FRANK: No foundation --</p> <p>2 HEARING OFFICER SCHAEFER: <small>There's no foundation.</small></p> <p>3 MR. FRANK: -- that there's ultrasound equipment.</p> <p>4 HEARING OFFICER SCHAEFER: _____</p> <p>5 at the facility?</p> <p>6 THE WITNESS: Yes.</p> <p>7 HEARING OFFICER SCHAEFER: <small>Do you service it?</small></p> <p>8 THE WITNESS: No.</p> <p>9 BY MR. FELSTINER:</p> <p>10 Q Do you conduct inventory?</p> <p>11 A Yes.</p> <p>12 HEARING OFFICER SCHAEFER: <small>Do you conduct --</small></p> <p>13 BY MR. FELSTINER:</p> <p>14 Q How often?</p> <p>15 HEARING OFFICER SCHAEFER: <small>At the location?</small></p> <p>16 MR. FELSTINER: Yes. Well, you conduct inventory at the</p> <p>17 Prospect Park West locations?</p> <p>18 THE WITNESS: Yes.</p> <p>19 BY MR. FELSTINER:</p> <p>20 Q How often do you conduct inventory?</p> <p>21 A We only did it once.</p> <p>22 Q When did you do that?</p> <p>23 A Last year.</p> <p>24 Q What does conducting inventory involve?</p> <p>25 MR. FRANK: Objection on the relevance.</p>	<p>1 Q Does that include the equipment that you personally are</p> <p>2 not responsible for servicing?</p> <p>3 A Yes.</p> <p>4 Q Do you know who services that equipment?</p> <p>5 A Yes.</p> <p>6 Q Who services that equipment?</p> <p>7 Q The pieces of equipment that we don't service, usually we</p> <p>8 refer to the vendor or the manufacturer that comes and performs</p> <p>9 the service.</p> <p>10 Q Does the hospital insure that equipment?</p> <p>11 MR. FRANK: Objection.</p> <p>12 HEARING OFFICER SCHAEFER: <small>If you know.</small></p> <p>13 MR. FELSTINER: If you know.</p> <p>14 THE WITNESS: No.</p> <p>15 BY MR. FELSTINER:</p> <p>16 Q I'm sorry, you don't know or they don't insure it?</p> <p>17 A I don't know.</p> <p>18 Q Are you involved in purchasing replacement equipment?</p> <p>19 A Yes.</p> <p>20 Q If something breaks and can't be fixed --</p> <p>21 HEARING OFFICER SCHAEFER: <small>Could the person -- the</small></p> <p>22 Wound Care/Urology.</p> <p>23 MR. FELSTINER: Certainly. I'll be clear. If something</p> <p>24 breaks in the Wound Care or Urology center and cannot be fixed,</p> <p>25 what do they do?</p>

Page 737	Page 739
<p>1 HEARING OFFICER SCHAEFER: <small>What do you do?</small></p> <p>2 MR. FRANK: Objection.</p> <p>3 HEARING OFFICER SCHAEFER: <small>Yeah. What do you do?</small></p> <p>4 THE WITNESS: We try to make an assessment. If the</p> <p>5 equipment needs to be replaced, we basically let the managers</p> <p>6 know this equipment is end of life or it's beyond repair. If</p> <p>7 they require our assistance to get the equipment, get a quote</p> <p>8 for that equipment it can either go both ways. You can either</p> <p>9 purchase it for them or they can purchase it themselves.</p> <p>10 BY MR. FELSTINER:</p> <p>11 Q If you're purchasing it for them, what do you do?</p> <p>12 HEARING OFFICER SCHAEFER: <small>Yeah. I would not know.</small></p> <p>13 -</p> <p>14 MR. FELSTINER: For --</p> <p>15 HEARING OFFICER SCHAEFER: <small>-- is whether he's --</small></p> <p>16 MR. FELSTINER: I --</p> <p>17 HEARING OFFICER SCHAEFER: <small>-- does those things at</small></p> <p>18 Prospect Park West.</p> <p>19 MR. FELSTINER: Have you purchased equipment for the</p> <p>20 facilities at Prospect Park West --</p> <p>21 HEARING OFFICER SCHAEFER: <small>The Urology --</small></p> <p>22 MR. FELSTINER: -- the Wound Care or the Urology</p> <p>23 facilities?</p> <p>24 THE WITNESS: Yes.</p> <p>25 HEARING OFFICER SCHAEFER: <small>Thank you.</small></p>	<p>1 recall?</p> <p>2 THE WITNESS: I can't recall.</p> <p>3 HEARING OFFICER SCHAEFER: <small>Okay. You asked me to --</small></p> <p>4 specific, when you're asking your questions about where,</p> <p>5 because obviously the witness does this all over the hospital.</p> <p>6 So we need to try to figure out what is happening specifically</p> <p>7 at this location.</p> <p>8 BY MR. FELSTINER:</p> <p>9 Q For the monitors that you mentioned, did you do a</p> <p>10 consultation on that equipment?</p> <p>11 A I submitted the quote myself to them.</p> <p>12 Q The quote?</p> <p>13 A Yes.</p> <p>14 Q Where did you get the quote?</p> <p>15 A From the vendors that at the time we're using.</p> <p>16 Q And who did you submit it to?</p> <p>17 A To the nurse -- to the office manager.</p> <p>18 HEARING OFFICER SCHAEFER: <small>Is that correct, yes or no?</small></p> <p>19 quote, you got the quote --</p> <p>20 THE WITNESS: Yes.</p> <p>21 HEARING OFFICER SCHAEFER: <small>-- and then you --</small></p> <p>22 did the purchase requisition.</p> <p>23 THE WITNESS: Basically, yes.</p> <p>24 HEARING OFFICER SCHAEFER: <small>Thank you.</small></p> <p>25 BY MR. FELSTINER:</p>
Page 738	Page 740
<p>1 BY MR. FELSTINER:</p> <p>2 Q When you have done that, what have you done?</p> <p>3 A They needed some monitors, some vital sign monitors.</p> <p>4 Basically, there's a requisition -- a purchasing requisition</p> <p>5 from Methodist Hospital. We fill it out and we submit it to</p> <p>6 purchasing for approval. And that goes through a process and</p> <p>7 then they get their equipment if it gets approval.</p> <p>8 HEARING OFFICER SCHAEFER: <small>So you fill out the purchasing</small></p> <p>9 requisition for those monitors or did the office managers do</p> <p>10 it?</p> <p>11 THE WITNESS: In this case they did.</p> <p>12 HEARING OFFICER SCHAEFER: <small>They did it. Okay.</small></p> <p>13 BY MR. FELSTINER:</p> <p>14 Q Have you ever done it?</p> <p>15 A Yes.</p> <p>16 HEARING OFFICER SCHAEFER: For?</p> <p>17 BY MR. FELSTINER:</p> <p>18 Q Did it go to the same office?</p> <p>19 HEARING OFFICER SCHAEFER: <small>Yeah, the --</small></p> <p>20 done it at wound -- the -- you mentioned the monitors, right?</p> <p>21 And you said they did the purchasing requisition for the</p> <p>22 monitors.</p> <p>23 THE WITNESS: Yes.</p> <p>24 HEARING OFFICER SCHAEFER: <small>-- wound care monitors.</small></p> <p>25 requisition form for either Urology or Wound Care that you</p>	<p>1 Q And in that case the purchase requisition form when to the</p> <p>2 processing -- the purchasing department at New York Methodist?</p> <p>3 MR. FRANK: Objection.</p> <p>4 HEARING OFFICER SCHAEFER: How --</p> <p>5 MR. FELSTINER: If you know. Does the --</p> <p>6 HEARING OFFICER SCHAEFER: Do --</p> <p>7 MR. FELSTINER: -- purchase requisition form go anywhere</p> <p>8 else besides --</p> <p>9 MR. FRANK: Objection.</p> <p>10 MR. FELSTINER: -- the New York Methodist purchasing</p> <p>11 department?</p> <p>12 MR. FRANK: Objection.</p> <p>13 HEARING OFFICER SCHAEFER: <small>Is that correct, yes or no?</small></p> <p>14 you have --</p> <p>15 MR. FELSTINER: It's the same procedure --</p> <p>16 HEARING OFFICER SCHAEFER: I don't --</p> <p>17 MR. FRANK: Well, objection.</p> <p>18 HEARING OFFICER SCHAEFER: -- think --</p> <p>19 MR. FRANK: You're not --</p> <p>20 HEARING OFFICER SCHAEFER: I think --</p> <p>21 MR. FRANK: -- testifying, counsel.</p> <p>22 HEARING OFFICER SCHAEFER: <small>And the question, the</small></p> <p>23 question is, is it the same procedure? So there's a distinct</p> <p>24 difference between the witness assuming that it's the same for</p> <p>25 these two entities and that's what we have to be careful of.</p>

Page 741	Page 743
<p>1 Do you know what happens to purchasing requisition forms that</p> <p>2 come out of -- that -- for those monitors that came out of MSO?</p> <p>3 Do you ever get -- do -- is the purchasing -- when a purchasing</p> <p>4 requisition form is submitted, right, does it ever come back to</p> <p>5 you first?</p> <p>6 THE WITNESS: No, doesn't come back to me.</p> <p>7 HEARING OFFICER SCHAEFER: <small>How do you know that?</small></p> <p>8 purchasing --</p> <p>9 THE WITNESS: No.</p> <p>10 HEARING OFFICER SCHAEFER: <small>...requisition form?</small></p> <p>11 THE WITNESS: Once it's submitted I won't see it.</p> <p>12 HEARING OFFICER SCHAEFER: <small>Okay. So do you know any</small></p> <p>13 knowledge where -- direct knowledge of where the purchasing</p> <p>14 requisition form for those monitors went, when the office</p> <p>15 manager submitted it?</p> <p>16 THE WITNESS: Purchasing, the purchasing department.</p> <p>17 HEARING OFFICER SCHAEFER: <small>How do you know that?</small></p> <p>18 THE WITNESS: Because it's the same process throughout the</p> <p>19 hospital.</p> <p>20 HEARING OFFICER SCHAEFER: <small>Okay. So it's -- just --</small></p> <p>21 assuming that? You don't actually know. You didn't watch her</p> <p>22 submit the purchasing requisition?</p> <p>23 THE WITNESS: No, I didn't watch her though.</p> <p>24 HEARING OFFICER SCHAEFER: <small>Okay. Right. So you know</small></p> <p>25 it's done elsewhere in the hospital?</p>	<p>1 or Wound Care.</p> <p>2 HEARING OFFICER SCHAEFER: <small>...okay. And that's --</small></p> <p>3 that's clear on the record that the -- that this individual</p> <p>4 doesn't know what happened to that specific purchasing</p> <p>5 requisition when it left his hands.</p> <p>6 MR. FRANK: Or any --</p> <p>7 HEARING OFFICER SCHAEFER: Okay.</p> <p>8 MR. FRANK: -- other. There's no evidence he's done any</p> <p>9 requisition.</p> <p>10 HEARING OFFICER SCHAEFER: <small>...requisition form?</small></p> <p>11 out, just not for wound --</p> <p>12 MR. FRANK: Not for Wound Care or Urology.</p> <p>13 HEARING OFFICER SCHAEFER: <small>...okay. So you know</small></p> <p>14 Have you ever done any purchasing requisition forms for any</p> <p>15 equipment at Urology or Wound Care?</p> <p>16 THE WITNESS: No.</p> <p>17 HEARING OFFICER SCHAEFER: <small>Yes. Okay. All right.</small></p> <p>18 MR. FRANK: So I would move to strike all that testimony</p> <p>19 as it applies to either Wound Care or Urology.</p> <p>20 HEARING OFFICER SCHAEFER: <small>Well, I think we've</small></p> <p>21 sufficiently clarified it. And the reader of the record will</p> <p>22 know that we have asked additional questions to clarify that</p> <p>23 the witness hasn't done that. Go ahead.</p> <p>24 CONTINUED DIRECT EXAMINATION</p> <p>25 BY MR. FELSTINER:</p>
Page 742	Page 744
<p>1 THE WITNESS: Yes.</p> <p>2 HEARING OFFICER SCHAEFER: <small>How do you --</small></p> <p>3 MR. FRANK: Object.</p> <p>4 HEARING OFFICER SCHAEFER: <small>...know that?</small></p> <p>5 THE WITNESS: We've been doing it since I've been at the</p> <p>6 hospital. That's how --</p> <p>7 HEARING OFFICER SCHAEFER: <small>...requisition form?</small></p> <p>8 it's done?</p> <p>9 THE WITNESS: No, I actually -- we put all the</p> <p>10 requisitions together and submitted it all together.</p> <p>11 HEARING OFFICER SCHAEFER: <small>...okay. So you know</small></p> <p>12 you testified there are sometimes when you do the purchasing</p> <p>13 requisition, right?</p> <p>14 THE WITNESS: When I fill it out, yes.</p> <p>15 HEARING OFFICER SCHAEFER: <small>...okay. So you know</small></p> <p>16 purchasing requisition form you submit it --</p> <p>17 THE WITNESS: Yes.</p> <p>18 HEARING OFFICER SCHAEFER: <small>...to who?</small></p> <p>19 THE WITNESS: To usually my supervisors and then they</p> <p>20 submit it to purchasing.</p> <p>21 HEARING OFFICER SCHAEFER: <small>And they submit it to</small></p> <p>22 purchasing?</p> <p>23 THE WITNESS: Yeah.</p> <p>24 HEARING OFFICER SCHAEFER: <small>...okay. I think we've</small></p> <p>25 MR. FRANK: There's no evidence he's done it for Urology</p>	<p>1 Q When you serviced the examination table at the Wound Care</p> <p>2 Center, did you require any replacement parts?</p> <p>3 A Yes.</p> <p>4 Q Where did you obtain them?</p> <p>5 A From the manufacturer of that table.</p> <p>6 Q How did you do that?</p> <p>7 A I had to fill out the requisition to order that part.</p> <p>8 Q And where did you send the requisition?</p> <p>9 A The same process. I mean to -- we -- I fill it out, and I</p> <p>10 give it to my manager and he then submits it to the purchasing</p> <p>11 department.</p> <p>12 Q Do you also install that replacement part?</p> <p>13 A Yeah. I -- yes, I did.</p> <p>14 Q Has your office ever received calls -- strike that. Do</p> <p>15 you inspect this equipment for functionality?</p> <p>16 A Yes. When the maintenance cycle is due, we have to come</p> <p>17 to the facilities and make sure that everything is updated and</p> <p>18 functional.</p> <p>19 Q How long is the maintenance cycle?</p> <p>20 A It depends. Some equipment is once a year, some of the</p> <p>21 equipment is six months, depending on the piece of equipment.</p> <p>22 Q Let me be -- make sure that I'm as clear as I can for the</p> <p>23 record. Does that maintenance cycle apply to the Urology</p> <p>24 center -- Urology facility at 1 Prospect Park West and the --</p> <p>25 strike that. Does that maintenance cycle apply to the</p>

<p style="text-align: right;">Page 745</p> <p>1 equipment that you service at the Urology facility at 1 2 Prospect Park West and the Wound Care Center at 1 Prospect Park 3 West? 4 A Yes. 5 Q Have you visited those two facilities I just mentioned to 6 perform the maintenance inspection that you described? 7 A Yes. 8 Q Has anyone from the Wound Care Center contacted your 9 office with regard to equipment that you do not service? 10 MR. FRANK: Objection if it's -- 11 MR. FELSTINER: I'll withdraw it. 12 MR. FRANK: -- not to him personally. 13 MR. FELSTINER: Withdrawn. 14 BY MR. FELSTINER: 15 Q Has the -- has personnel from the Wound Care Center ever 16 contacted your office with respect to the hyperbaric chambers? 17 MR. FRANK: Objection to form unless it was -- he has 18 personal knowledge. 19 MR. FELSTINER: If you know. If they ever contacted -- 20 THE WITNESS: No, I don't know. 21 HEARING OFFICER SCHAEFER: <small>Okay. I mean --</small> 22 MR. FRANK: He said he -- 23 HEARING OFFICER SCHAEFER: Yeah. 24 MR. FRANK: -- didn't do a hyperbaric -- 25 HEARING OFFICER SCHAEFER: He --</p>	<p style="text-align: right;">Page 747</p> <p>1 HEARING OFFICER SCHAEFER: <small>If you know.</small> 2 THE WITNESS: She's the manager, office manager. 3 BY MR. FRANK: 4 Q Of what site? 5 A Of Urology. 6 Q Has Ms. Wood ever asked you to perform any specific work 7 at 1 Prospect Park West Urology? 8 A Yes. 9 Q Okay. When was that? 10 A I would say sometime in the summertime last year. 11 Q Of what year? 12 A Last year. 13 Q Was that 2015? 14 A Yes, like around there. 15 Q Any other time? 16 A Several others before that, but I don't recall. 17 Q Any other in 2015? 18 A No. Not at the moment, I don't recall. 19 Q Were there any requests in 2014? 20 A Yes, yes. 21 Q Okay. How many? 22 A I would say four or five. 23 Q Okay. And what were you requested to fix in the summer of 24 2015? 25 A 2015? I don't have it in my head specifically, but I do</p>
<p style="text-align: right;">Page 746</p> <p>1 MR. FRANK: -- chamber. 2 HEARING OFFICER SCHAEFER: <small>Again. I think the question</small> 3 was had they ever contacted you about it, even though you don't 4 service it? But he said no, so -- 5 MR. FELSTINER: I don't have anything further. 6 HEARING OFFICER SCHAEFER: <small>Okay. I mean, I mean --</small> 7 some questions now maybe. 8 MR. FRANK: We need a little time. 9 HEARING OFFICER SCHAEFER: <small>Okay. I mean, I mean --</small> 10 the record. 11 (Whereupon, a brief recess was taken) 12 HEARING OFFICER SCHAEFER: <small>On the record.</small> 13 CROSS EXAMINATION 14 BY MR. FRANK: 15 Q Have you ever talked to Suzanne Wood? 16 A I'm sorry? 17 Q Have you ever talked to Suzanne Wood? 18 A Yes. 19 Q How many times have you talked to Suzanne Wood? 20 A Several times. 21 Q When was the last time you talked to Suzanne Wood? 22 A I don't remember, but it's been a while. 23 Q How long? Months? 24 A I would say a couple of months. 25 Q What is Suzanne Wood's position?</p>	<p style="text-align: right;">Page 748</p> <p>1 recall her calling me to make sure that all the inspection tags 2 on all the medical equipment is up to date. 3 Q Is it a fact that inspection tags are put on to equipment 4 that belongs to vendors? 5 A Not necessarily. 6 Q Isn't -- aren't -- isn't all equipment tagged? 7 A All the equipment has to be tagged, yes. 8 Q And if the equipment belongs to a vendor is it supposed to 9 be tagged? 10 A By the vendor, yes. 11 Q So every piece of equipment, whether it's hospital owned, 12 MSO owned or vendor owned is tagged, correct? 13 A Yes. 14 Q Is that yes? 15 A Yes. 16 Q And is it a fact there's no exceptions to that? Every 17 piece of equipment, regardless of who owns it, is tagged? 18 A Yes. 19 Q Now, do you know that -- withdrawn. Other than this one 20 request in 2015, did you perform any service work at the 21 Urology practice in 2015? 22 A I might have replaced a battery on a piece of equipment. 23 Q You don't remember though? 24 A I think it was on the defibrillator. They have a small 25 defibrillator there. I think I replaced the battery there</p>

<p style="text-align: right;">Page 749</p> <p>1 recently.</p> <p>2 Q Anything else?</p> <p>3 A Not to my knowledge at this point.</p> <p>4 Q Now, on either of --</p> <p>5 HEARING OFFICER SCHAEFER: <small>she pauses before he asks</small></p> <p>6 this year? Like since January.</p> <p>7 THE WITNESS: The maintenance cycle is probably coming up</p> <p>8 due.</p> <p>9 HEARING OFFICER SCHAEFER: Okay.</p> <p>10 THE WITNESS: So most likely.</p> <p>11 MR. FRANK: <small>Have you been to the Urology practice in 2016?</small></p> <p>12 THE WITNESS: Not yet, not yet.</p> <p>13 BY MR. FRANK:</p> <p>14 Q Am I correct that you had one visit to Urology in 2015 or</p> <p>15 maybe a second visit?</p> <p>16 A The number doesn't come into my head, but I've been there</p> <p>17 a couple of times in '15. That I know. I can't tell you</p> <p>18 exactly for what, but --</p> <p>19 Q Now, isn't it a fact that the tables -- the patient</p> <p>20 examination tables in Urology do not have lights on them?</p> <p>21 A No, they do not.</p> <p>22 Q Oh. Then how could you have fixed the lights on the</p> <p>23 Urology tables if they don't have lights --</p> <p>24 HEARING OFFICER SCHAEFER: <small>I don't --</small></p> <p>25 MR. FRANK: -- on them?</p>	<p style="text-align: right;">Page 751</p> <p>1 A Yes.</p> <p>2 Q When was that?</p> <p>3 A Can't give you a date, but sometime in '14, yes.</p> <p>4 Q Now, have you visited or done any work at the Wound Care</p> <p>5 Center in 2016?</p> <p>6 A No, not at the moment.</p> <p>7 Q Did you do any work at the Wound Care Center in 2015?</p> <p>8 A Yes.</p> <p>9 Q When was that?</p> <p>10 A Aye, aye, aye. Sometime in Christmas, I believe, or in</p> <p>11 December.</p> <p>12 Q Any other time or is that one time in 2015?</p> <p>13 A There's other times, but I don't have the specific dates.</p> <p>14 Q Okay. What did you do the Christmas visit?</p> <p>15 A Christmas visit? Wound Care. I think I replaced another</p> <p>16 battery there, I believe.</p> <p>17 Q What kind of battery? A little 12 volt? A one a half</p> <p>18 volt battery?</p> <p>19 A No, a portable defibrillator battery.</p> <p>20 Q How big is that?</p> <p>21 A The size of calculator.</p> <p>22 Q What?</p> <p>23 A The size of a calculator more or less.</p> <p>24 Q Oh. You take one battery out and put another one in?</p> <p>25 A Yeah.</p>
<p style="text-align: right;">Page 750</p> <p>1 HEARING OFFICER SCHAEFER: <small>she pauses before he asks</small></p> <p>2 they were on the table. It was just lights.</p> <p>3 MR. FRANK: Oh. They weren't on table?</p> <p>4 THE WITNESS: No.</p> <p>5 BY MR. FRANK:</p> <p>6 Q Oh. Where were the lights that you were fixing?</p> <p>7 A Some of them are in the wall.</p> <p>8 Q What?</p> <p>9 A Examination lights in the wall.</p> <p>10 Q Oh, wall lights?</p> <p>11 A Yeah.</p> <p>12 Q Oh. That's now part of the equipment on vendor table --</p> <p>13 on the table?</p> <p>14 A But the physician uses that and I fix that.</p> <p>15 Q I see. But not in 2015?</p> <p>16 A No, not in '15, no.</p> <p>17 Q Not in 2016?</p> <p>18 A Not yet.</p> <p>19 HEARING OFFICER SCHAEFER: It's --</p> <p>20 BY MR. FRANK:</p> <p>21 Q And so you know what you're going to be doing next week?</p> <p>22 HEARING OFFICER SCHAEFER: <small>she p. 87 -- he said --</small></p> <p>23 MR. FRANK: Okay.</p> <p>24 BY MR. FRANK:</p> <p>25 Q Did you fix any lights in 2014?</p>	<p style="text-align: right;">Page 752</p> <p>1 Q Did you do anything else?</p> <p>2 A Make sure I test it for functionality after that.</p> <p>3 Q And who called you to do that?</p> <p>4 A We have a schedule on all these pieces of equipment and</p> <p>5 when we see the date is coming up we just show up on site and</p> <p>6 do it.</p> <p>7 Q Oh. Did -- who's the manager of the Wound Care Center?</p> <p>8 A Karen, Karen Chan.</p> <p>9 Q Did you ask you to do this work?</p> <p>10 A No, no.</p> <p>11 Q Did anybody at the Wound Care Center ask you to do this</p> <p>12 work?</p> <p>13 A No.</p> <p>14 Q Was there any work order per --</p> <p>15 A I'm pretty sure.</p> <p>16 Q From Wound Care?</p> <p>17 A There was one recently that was done, yes.</p> <p>18 Q I'm referring to the December visit.</p> <p>19 A I don't know. I don't know specifically. I got -- I</p> <p>20 don't have -- I don't know for sure.</p> <p>21 Q Did you fill out a work order form when you were done?</p> <p>22 A I'm pretty sure I did, but I -- it's been a while in my</p> <p>23 head.</p> <p>24 HEARING OFFICER SCHAEFER: <small>she p. 87 -- he said --</small></p> <p>25 you fill out --</p>

Page 753	Page 755
<p>1 THE WITNESS: Yes, yes, yes. 2 HEARING OFFICER SCHAEFER: <small>What is called a work order?</small> 3 out -- 4 THE WITNESS: A work order. 5 HEARING OFFICER SCHAEFER: <small>It is called a work order?</small> 6 THE WITNESS: A work order. 7 HEARING OFFICER SCHAEFER: <small>Alright.</small> 8 BY MR. FRANK: 9 Q And are they charged for that battery? 10 A Say that again. 11 Q Are they charged for the battery? 12 A We order it, but I don't know the process after that. But 13 we submit the requisition, but I don't know what happens after 14 that. 15 Q Well, did you order the battery? 16 A I ordered the battery, yes. 17 Q How did you know to order the battery if no one called 18 you? 19 A Like I recall before, we have a schedule. The pieces of 20 equipment has tags on it, indicating when was the last time the 21 equipment battery was replaced and when it's due. If the day 22 comes soon or within the maintenance period, we take action and 23 replace the battery. We place and order for the battery and 24 replace it. 25 HEARING OFFICER SCHAEFER: <small>Did it call the order? Yes.</small></p>	<p>1 that was in 2014? 2 HEARING OFFICER SCHAEFER: <small>Again, the -- the --</small> 3 MR. FRANK: If you know. 4 HEARING OFFICER SCHAEFER: <small>If you know.</small> 5 THE WITNESS: <small>Had to be in 2014, because that's -- 2015 is</small> 6 <small>too soon. It's 2014. That's when we submitted it.</small> 7 BY MR. FRANK: 8 Q And is it a fact that you've had nothing to do with 9 purchasing vital sign monitors since 2014 or -- 10 A I just handed out the quote. 11 Q Huh? 12 HEARING OFFICER SCHAEFER: <small>At those locations?</small> 13 THE WITNESS: Yes. 14 MR. FRANK: <small>At either, right. At Wound Care or Urology?</small> 15 THE WITNESS: <small>(No audible answer)</small> 16 HEARING OFFICER SCHAEFER: <small>You have to say yes.</small> 17 THE WITNESS: Yes. Sorry. 18 BY MR. FRANK: 19 Q Now, have you done any inventory checking with Urology 20 practice in 2016? 21 HEARING OFFICER SCHAEFER: <small>Inventory you said?</small> 22 MR. FRANK: Yeah. He said he -- 23 HEARING OFFICER SCHAEFER: <small>Oh, no I --</small> 24 MR. FRANK: -- checked inventory. 25 HEARING OFFICER SCHAEFER: Okay.</p>
Page 754	Page 756
<p>1 -- 2 THE WITNESS: Kind of. 3 HEARING OFFICER SCHAEFER: <small>Changed to inventory?</small> 4 it's not calling for it? 5 THE WITNESS: Yes. 6 HEARING OFFICER SCHAEFER: Okay. 7 BY MR. FRANK: 8 Q Now, you said you submitted a -- and obtained a quote for 9 a vendor -- from a vendor for vital sign monitors. Was that in 10 2016? 11 A No, no. 12 Q Was that in 2015 13 HEARING OFFICER SCHAEFER: <small>Inventory?</small> 14 when it was? 15 THE WITNESS: I would say 2014. 16 BY MR. FRANK: 17 Q Other than getting the quote from the vendor for the 18 office manager in 2014, have you gotten any quotes for 19 equipment in Urology? 20 A No, no. 21 Q This was a one time? 22 A Yes, a one time. A one time deal. 23 Q And the office manager was Suzanne Wood? 24 A Wood. 25 Q And when the Urology practice purchased this equipment</p>	<p>1 THE WITNESS: <small>Not yet. Usually when we do maintenance we</small> 2 <small>just double check to make sure that there's not additional</small> 3 <small>equipment. And if there is, we have to inventory that part</small> 4 <small>also.</small> 5 BY MR. FRANK: 6 Q Have you done any inventory checking at Urology in 2016? 7 A No. 8 Q Have you done any inventory checking at Wound Care in 9 2016? 10 A No. 11 Q Have you done any inventory checking anywhere at 1 12 Prospect Park West in 2016? 13 A No. 14 Q Has anyone asked you to do any inventory checking at 1 15 Prospect Park West in 2016? 16 A No. 17 Q Did you do any checking 2015? 18 A Yes. 19 Q Okay. Who directed you to do that? 20 A My director at the time. 21 Q Did either of the office managers -- that was Suzanne 22 Wood. Did she ask you do any inventory checking in 2015? 23 A No. 24 Q Did Karen Chan ask you to do any inventory checking in 25 2015?</p>

<p style="text-align: right;">Page 757</p> <p>1 A No.</p> <p>2 Q Did Joanne Kennedy ever ask you to do any inventory checking</p> <p>3 at 1 Prospect Park West?</p> <p>4 A No.</p> <p>5 Q Did anyone from MSO of Kings County ever ask you to do any</p> <p>6 inventory checking?</p> <p>7 A No.</p> <p>8 Q Now, I believe you testified you conducted inventory once</p> <p>9 last year?</p> <p>10 HEARING OFFICER SCHAEFER: <small>That's not --</small></p> <p>11 MR. FRANK: What?</p> <p>12 HEARING OFFICER SCHAEFER: <small>Was it just once?</small></p> <p>13 THE WITNESS: Yes.</p> <p>14 HEARING OFFICER SCHAEFER: Okay.</p> <p>15 BY MR. FRANK:</p> <p>16 Q When was that?</p> <p>17 A I was last year, but I don't know what month. I can't</p> <p>18 remember.</p> <p>19 Q When you referred to examination lights you were referring</p> <p>20 to wall lights?</p> <p>21 HEARING OFFICER SCHAEFER: <small>Yes, correct, correct.</small></p> <p>22 MR. FRANK: Okay.</p> <p>23 HEARING OFFICER SCHAEFER: -- of --</p> <p>24 MR. FRANK: You said that --</p> <p>25 HEARING OFFICER SCHAEFER: <small>Light's calling that?</small></p>	<p style="text-align: right;">Page 759</p> <p>1 A '15.</p> <p>2 Q In 2015?</p> <p>3 A Yes.</p> <p>4 Q That was one time?</p> <p>5 A Yes.</p> <p>6 Q Who's your dispatcher?</p> <p>7 A Say that again. I'm sorry.</p> <p>8 HEARING OFFICER SCHAEFER: <small>Do -- let's --</small></p> <p>9 BY MR. FRANK:</p> <p>10 Q Who dispatches you?</p> <p>11 HEARING OFFICER SCHAEFER: <small>and then that's the</small></p> <p>12 dispatcher or --</p> <p>13 THE WITNESS: <small>Our coordinator. Her name is Liz Diaz is</small></p> <p>14 our coordinator. She dispatches service calls.</p> <p>15 BY MR. FRANK:</p> <p>16 Q Now, when you said you replaced the hydraulics in a</p> <p>17 medical table, was that in 2013?</p> <p>18 A No.</p> <p>19 Q When was that?</p> <p>20 A That was actually in '16.</p> <p>21 Q Okay. And at what location?</p> <p>22 A And this was in Wound Care.</p> <p>23 Q And was that a manufacturing defect? A manufacturer's</p> <p>24 defect?</p> <p>25 HEARING OFFICER SCHAEFER: <small>Yes, yes. I don't know the</small></p>
<p style="text-align: right;">Page 758</p> <p>1 MR. FRANK: <small>You said you did not do any checking or work</small></p> <p>2 on the electrosurgical equipment, is that correct?</p> <p>3 THE WITNESS: No.</p> <p>4 BY MR. FRANK:</p> <p>5 Q Okay. You said you did examination of lights?</p> <p>6 A Ophthalmoscope is the proper word. Those are the lights</p> <p>7 that the physicians use to examine the patient.</p> <p>8 Q And that's the physician's equipment?</p> <p>9 A Yes.</p> <p>10 Q Okay.</p> <p>11 HEARING OFFICER SCHAEFER: <small>That's -- just describe the</small></p> <p>12 light for me.</p> <p>13 THE WITNESS: <small>It's the little light that they put in the</small></p> <p>14 ear when they're checking. When they --</p> <p>15 HEARING OFFICER SCHAEFER: Oh.</p> <p>16 THE WITNESS: You know?</p> <p>17 HEARING OFFICER SCHAEFER: <small>Okay. Thank you.</small></p> <p>18 THE WITNESS: Ophthalmoscope is the --</p> <p>19 HEARING OFFICER SCHAEFER: <small>Alright.</small></p> <p>20 THE WITNESS: -- proper term --</p> <p>21 MR. FRANK: Did Suzanne Wood ask you to make that</p> <p>22 inspection, check that?</p> <p>23 THE WITNESS: She suggested it.</p> <p>24 BY MR. FRANK:</p> <p>25 Q When did she suggest it?</p>	<p style="text-align: right;">Page 760</p> <p>1 witness able -- well --</p> <p>2 MR. FRANK: If you know.</p> <p>3 HEARING OFFICER SCHAEFER: <small>-- I mean alright.</small></p> <p>4 THE WITNESS: <small>It was just -- it just broke down. You</small></p> <p>5 know, we just replaced the part.</p> <p>6 HEARING OFFICER SCHAEFER: Okay.</p> <p>7 THE WITNESS: <small>It wasn't a recall or anything like that.</small></p> <p>8 HEARING OFFICER SCHAEFER: <small>That was not -- okay.</small></p> <p>9 BY MR. FRANK:</p> <p>10 Q And did Ms. Chan request that you do this work?</p> <p>11 A Yes.</p> <p>12 MR. FRANK: I have no further questions.</p> <p>13 HEARING OFFICER SCHAEFER: <small>Okay. Oh, yes, yes, yes.</small></p> <p>14 questions?</p> <p>15 MR. FELSTINER: A couple.</p> <p>16 HEARING OFFICER SCHAEFER: <small>Alright.</small></p> <p>17 REDIRECT EXAMINATION</p> <p>18 BY MR. FELSTINER:</p> <p>19 Q Mr. Gil, do you know does anybody else in the Biomed</p> <p>20 Engineering office service equipment in the Urology facility or</p> <p>21 the Wound Care facility at 1 Prospect Park West?</p> <p>22 HEARING OFFICER SCHAEFER: <small>You mean anyone else?</small></p> <p>23 MR. FELSTINER: Anyone besides you, yes.</p> <p>24 THE WITNESS: <small>I don't understand the question. Does</small></p> <p>25 anybody know?</p>

<p style="text-align: right;">Page 761</p> <p>1 BY MR. FELSTINER:</p> <p>2 Q No.</p> <p>3 HEARING OFFICER SCHAEFER: Do --</p> <p>4 MR. FELSTINER: I said --</p> <p>5 HEARING OFFICER SCHAEFER: Sorry.</p> <p>6 MR. FELSTINER: -- if you know.</p> <p>7 HEARING OFFICER SCHAEFER: <small>That's my fault.</small></p> <p>8 MR. FELSTINER: I wanted --</p> <p>9 HEARING OFFICER SCHAEFER: <small>...about the...</small></p> <p>10 Sorry. Here. Do you know if anyone else that works in your</p> <p>11 department services equipment or -- at the Wound Care or</p> <p>12 Urology department or practices?</p> <p>13 THE WITNESS: In addition to myself --</p> <p>14 HEARING OFFICER SCHAEFER: Uh-huh.</p> <p>15 THE WITNESS: -- servicing? If I'm not available, yes.</p> <p>16 There's somebody else that will cover me --</p> <p>17 HEARING OFFICER SCHAEFER: <small>...about the...</small></p> <p>18 special assignment to these two locations or are there other --</p> <p>19 is it just whoever is in the office when they call comes?</p> <p>20 THE WITNESS: No, I'm assigned to the satellite locations.</p> <p>21 HEARING OFFICER SCHAEFER: Oh.</p> <p>22 THE WITNESS: I was assigned to the satellite locations,</p> <p>23 but if I'm not available somebody will cover for me.</p> <p>24 HEARING OFFICER SCHAEFER: Okay.</p> <p>25 THE WITNESS: I don't know I answered it the right way.</p>	<p style="text-align: right;">Page 763</p> <p>1 MS. WILCOX: -- question.</p> <p>2 MR. FRANK: -- Employer ask that question in an R case</p> <p>3 hearing? I --</p> <p>4 HEARING OFFICER SCHAEFER: <small>...about the...</small></p> <p>5 was about whether to combine a satellite.</p> <p>6 MR. FRANK: Really? I would --</p> <p>7 HEARING OFFICER SCHAEFER: I can --</p> <p>8 MR. FRANK: -- suggest it --</p> <p>9 HEARING OFFICER SCHAEFER: <small>...imagine.</small></p> <p>10 MR. FRANK: -- it demonstrates the bias of this</p> <p>11 proceeding.</p> <p>12 HEARING OFFICER SCHAEFER: <small>...about the...</small></p> <p>13 suggestion that I've demonstrated any bias in this case.</p> <p>14 MR. FRANK: I'm not --</p> <p>15 HEARING OFFICER SCHAEFER: And --</p> <p>16 MR. FRANK: I'm referring to the Agency.</p> <p>17 HEARING OFFICER SCHAEFER: <small>...about the...</small></p> <p>18 you're going to suggest it again limit it to the Agency.</p> <p>19 Alright.</p> <p>20 MR. FELSTINER: No -- nothing else.</p> <p>21 HEARING OFFICER SCHAEFER: <small>...about the...</small></p> <p>22 questions, Mr. Frank?</p> <p>23 RECROSS EXAMINATION</p> <p>24 BY MR. FRANK:</p> <p>25 Q Does -- what does your uniform say? New York Methodist</p>
<p style="text-align: right;">Page 762</p> <p>1 So --</p> <p>2 BY MR. FELSTINER:</p> <p>3 Q You referred to your director. Who's your director?</p> <p>4 A At the moment his name is Mark Priyev.</p> <p>5 Q What's his position?</p> <p>6 A He's the medical -- Biomedical Engineering director right</p> <p>7 now.</p> <p>8 Q He's employed by Methodist Hospital?</p> <p>9 A Yes.</p> <p>10 Q And Liz Diaz the coordinator?</p> <p>11 A Yes.</p> <p>12 Q She works in your department as well?</p> <p>13 A Yes.</p> <p>14 Q She's a Methodist Hospital employee?</p> <p>15 A Yes.</p> <p>16 Q Are you represented by 1199 --</p> <p>17 A Yes.</p> <p>18 Q -- SEIU?</p> <p>19 HEARING OFFICER SCHAEFER: <small>We're re --</small></p> <p>20 MR. FRANK: Last time I looked that was an improper</p> <p>21 question in an R case hearing.</p> <p>22 MS. WILCOX: <small>Whether a person is represented by a union?</small></p> <p>23 That -- I mean I don't understand. That's not possibly an</p> <p>24 improper --</p> <p>25 MR. FRANK: Would the --</p>	<p style="text-align: right;">Page 764</p> <p>1 Hospital?</p> <p>2 A No, Biomedical Engineering.</p> <p>3 Q Huh?</p> <p>4 A Biomedical Engineering.</p> <p>5 Q Does it say New York Methodist Hospital?</p> <p>6 A No, no, no.</p> <p>7 MR. FRANK: No further questions.</p> <p>8 HEARING OFFICER SCHAEFER: <small>...about the...</small></p> <p>9 very much for coming in and sitting through this.</p> <p>10 THE WITNESS: No problem.</p> <p>11 HEARING OFFICER SCHAEFER: <small>Alright.</small></p> <p>12 MR. FRANK: I was going to ask him if he paid dues.</p> <p>13 MS. WILCOX: Ah.</p> <p>14 THE WITNESS: No question.</p> <p>15 HEARING OFFICER SCHAEFER: Yeah.</p> <p>16 MR. FRANK: Then --</p> <p>17 HEARING OFFICER SCHAEFER: <small>...about the...</small></p> <p>18 Alright. Let's go off the record for just one second.</p> <p>19 (Whereupon, at 12:26 p.m. a luncheon recess was taken)</p>

<p style="text-align: right;">Page 765</p> <p>1 AFTERNOON SESSION 2 (1:24 P.M.) 3 HEARING OFFICER SCHAEFER: <small>On the record.</small> 4 A document in the -- at this point all -- every document 5 should have been moved into evidence. The only one that's 6 outstanding is what was marked as MSO-19 in the other record. 7 I'm going to mark it right now as MSO-10 in this record. It's 8 Tania Hernandez's (sic) ID badge. 9 (Employer's MSO-10 identified) 10 MS. WILCOX: Henriquez. 11 HEARING OFFICER SCHAEFER: <small>I'm sorry?</small> 12 MS. WILCOX: Henriquez. 13 HEARING OFFICER SCHAEFER: <small>Henriquez?</small> 14 MS. WILCOX: Yes. 15 HEARING OFFICER SCHAEFER: <small>Okay, sorry.</small> 16 MS. WILCOX: Uh-huh. 17 HEARING OFFICER SCHAEFER: <small>Let me repeat that.</small> 18 printing it out, but I'm going to move it into evidence at this 19 point. 20 (Employer's MSO-10 received in evidence) 21 MR. FRANK: Which record are we on? 22 HEARING OFFICER SCHAEFER: <small>On the record, I am.</small> 23 marked in Wound Care, but we're going to put it in the Urology 24 record, because it's -- that's the one we have open and it's -- 25 MR. FRANK: Fine.</p>	<p style="text-align: right;">Page 767</p> <p>1 particularly the closing arguments want to touch on both, 2 please do so. 3 The -- we are -- the Regional Director is permitting 4 memorandums on points and authority -- points of authority in 5 this matter. Those memorandums, they are not briefs. So you 6 do not need -- we don't need a facts section. We're looking 7 for case law supporting your position. To the extent though 8 obviously if you need to reference matters that came out in 9 this record, please do so. 10 The memorandums of points of authority need to be emailed 11 to the Hearing Officer's email address, 12 erin.schaefer2@nlrb.gov, by 5:00 p.m. on Monday, which is April 13 18th. The -- please serve each other with copies of the 14 memorandum of points of authorities, because those will be -- 15 shortly after they're received, we'll issue an order receiving 16 them into the record and then an order closing the record in 17 this case. Okay. 18 MS. WILCOX: And service by email is -- 19 HEARING OFFICER SCHAEFER: <small>Yes, that's correct.</small> 20 And will you both accept email service on each other? 21 MR. FRANK: Yes. 22 MS. WILCOX: Yes. 23 HEARING OFFICER SCHAEFER: <small>Okay, that's correct.</small> 24 other as well. Again, 5:00 O'clock on Monday. The -- if you 25 need to reach me, call my office. If something comes up, call</p>
<p style="text-align: right;">Page 766</p> <p>1 HEARING OFFICER SCHAEFER: <small>...going to be okay.</small> 2 MR. FRANK: No objection. 3 HEARING OFFICER SCHAEFER: <small>Alright.</small> 4 MR. FRANK: This is the one with the blue background? 5 HEARING OFFICER SCHAEFER: <small>That's correct. Okay.</small> 6 UNIDENTIFIED SPEAKER: <small>Oh, this was the X-ray --</small> 7 HEARING OFFICER SCHAEFER: No. 8 MS. WILCOX: Yes. 9 HEARING OFFICER SCHAEFER: Yes 10 MR. FELSTINER: Yes. 11 MS. WILCOX: Yes. 12 HEARING OFFICER SCHAEFER: <small>X-ray --</small> 13 MS. WILCOX: Radiology -- 14 HEARING OFFICER SCHAEFER: <small>X-ray tech.</small> 15 MS. WILCOX: -- technologist. 16 HEARING OFFICER SCHAEFER: <small>Okay, thank you very much.</small> 17 COURT REPORTER: There was no number on it. I was 18 wondering -- 19 HEARING OFFICER SCHAEFER: <small>Oh, okay. Alright. I'll</small> 20 figure that out in a second. Okay. Alright. At this point 21 just once again for the record this -- the -- we're going to do 22 some closing statements. 23 They're going to be on the record in 172410, which is the 24 Urology unit. However, we will be taking administrative notice 25 of the entire record in case 172398, to the extent that the --</p>	<p style="text-align: right;">Page 768</p> <p>1 me. 2 The -- alright. So I want to give an opportunity to the 3 parties to make any oral arguments that they want to make right 4 now. And I understand the Employer wants to make a motion. So 5 -- 6 MS. WILCOX: Before we do -- 7 HEARING OFFICER SCHAEFER: <small>Sure.</small> 8 MS. WILCOX: -- motions or closing statements, I'd like to 9 just put on the record that the employees who work at I 10 Prospect Park West who are employed at -- who work at the 11 Pediatric Center as well as the Spine and Arthritis Center at I 12 Prospect Park West are represented by 1199 SEIU, the Petitioner 13 in this matter. And they are covered by the 1199 and League 14 Hospital contract, which were entered into evidence as Union 15 exhibits 30(a) and 30(b). 16 HEARING OFFICER SCHAEFER: <small>Okay, thank you very much.</small> 17 -- 18 MR. FRANK: There's no -- 19 HEARING OFFICER SCHAEFER: <small>-- there's --</small> 20 MR. FRANK: -- stipulation on that. 21 HEARING OFFICER SCHAEFER: <small>Okay, that's correct.</small> 22 and there is an open -- no one is quite sure if those 23 individuals -- what unit those individuals are in, correct? 24 MS. WILCOX: Right. 25 HEARING OFFICER SCHAEFER: <small>Okay, that's correct.</small></p>

<p style="text-align: right;">Page 769</p> <p>1 just none of the people in this room. 2 MS. WILCOX: Right. 3 HEARING OFFICER SCHAEFER: Okay. 4 MR. FRANK: We don't know which employees it applies to. 5 HEARING OFFICER SCHAEFER: <small>they change the hour</small> 6 MR. FRANK: Before closing I would like to make a motion 7 in each case. And in case number 29-RC-172410, the Urology 8 unit, MSO of Kings County moves to dismiss the petition on the 9 grounds that it fails to raise a question concerning 10 representation. On its face, the petition seeks a unit of all 11 full time and regular part time professional and non- 12 professional employees employed by New York Methodist 13 Hospital/MSO of Kings County, LLC. 14 Let me start over. The included unit was all full time 15 and -- all full time and regular part time professional and 16 non-professional employees employed by New York Methodist 17 Hospital/MSO of Kings County, LLC at Urology Clinic Care Center 18 at 1 Prospect Park West, Suite C, Brooklyn, New York, residual 19 to the existing professional and non-professional unit 20 represented by 1199 SEIU at Methodist Hospital. (Titles to be 21 included, office assistant, administrative assistant, patient 22 assistant, licensed practical nurse, medical assistant, 23 clinical assistant and physician assistant. Excluded, all 24 other employees.) 25 On its face the petitioned for unit is inappropriate and</p>	<p style="text-align: right;">Page 771</p> <p>1 HEARING OFFICER SCHAEFER: <small>By its terms?</small> 2 MR. FRANK: Yes. The one in evidence refers specifically 3 to the hospital location -- 4 HEARING OFFICER SCHAEFER: Okay. 5 MR. FRANK: -- by its terms. MSO of Kings County and the 6 Urology practice is not located at the hospital. It's at 1 7 Prospect Park West, Suite C. It is not part of the acute care 8 hospital. It is not part of the Article 28. And since the 9 location is not part of the hospital, under established Board 10 law it cannot be a combined unit with the hospital unit. And 11 even if the unit -- even if the Urology practice was part of 12 the Article 28, which it is not, the Board's long established 13 policies have precluded the appending of physician practices to 14 acute care hospital units. 15 Now, even if the Board were to determine, notwithstanding 16 MSO's objections and Methodist Hospital's objections, that the 17 Urology practice was part of the hospital -- this is an 18 assuming arguendo -- 19 HEARING OFFICER SCHAEFER: Uh-huh. 20 MR. FRANK: -- argument -- then the acute care hospital 21 units would be the appropriate units for determining the 22 appropriate bargaining units. And in the acute care hospital 23 there are eight established units, one of which is clerical 24 employees and another one is technical employees. So on the 25 petitioned for employees they would go into either quote the</p>
<p style="text-align: right;">Page 770</p> <p>1 is not an appropriate unit. Therefore there is no question 2 concerning representation. To start with, there is no existing 3 combined unit of professional and non-professional employees at 4 New York Methodist Hospital. Secondly, the petition does not 5 seek all of the professional employees who are employed at the 6 MSO of Kings County Urology practice. 7 The record shows there are both physician assistants and 8 registered nurses. The Union does not seek to represent the 9 registered nurses. So they're not looking to seek all 10 professional employees. 11 In addition, at the hospital the Union does not represent 12 registered nurses nor does it represent physician assistant. 13 Therefore the petitioned for unit cannot be a residual unit to 14 the hospital unit. The unit -- and this is the most 15 fundamental part of the motion -- cannot be appropriate, 16 because the Board healthcare rules for acute care hospitals 17 specifically prohibit the combining of employees at acute care 18 hospitals with employees who are not working at the acute care 19 hospital. 20 It is stipulated that Methodist Hospital is an acute care 21 hospital and that its location is at the 6th Street location. 22 And the Board certification of individual units at Methodist 23 Hospital have all been specific to that location. It excludes 24 other locations from the stipulated units or the certified 25 units.</p>	<p style="text-align: right;">Page 772</p> <p>1 clerical unit or the technical unit, not -- they wouldn't be 2 into any single unit, because there is not a combined unit of 3 employees. 4 Such division of employees into small units was 5 specifically prohibited under 9(c) of the Act, when hospitals 6 became subject to The National Labor Relations Act. In 7 addition, Board law has established that union who represent 8 employees at an acute care hospital cannot repeatedly seek to 9 add residual units to existing bargaining units, nor quote 10 residual units at outside locations. 11 If the Union is not seeking registered nurses, but they 12 are seeking the nurse -- the physician assistants, who are 13 professional employees, Board law specifically proscribes 14 splitting of professional categories. And the Union is seeking 15 less than all professionals. They also cannot by definition be 16 seeking a residual unit, because they do not represent any of 17 the physician assistants employed by the hospital, nor do they 18 represent the registered nurses employed by the hospital. 19 Therefore they're -- no, not seeking the registered nurses of 20 the Urology practice is clearly inappropriate. And in any 21 event certainly can't be part of a residual unit, because they 22 don't have the basic unit to append them. 23 If -- the petition is also defective on its face, because 24 to the extent it is listing two entities as Employers or -- 25 there's no specific theory being articulated, but we've all</p>

Page 773	Page 775
<p>1 heard the testimony. There's no agreement to cover the 2 employees sought by the multi-employer collective bargaining 3 agreement, nor is there a consent to put the employees into a 4 hospital unit by MSO of Brooklyn. Even -- 5 HEARING OFFICER SCHAEFER: So -- 6 MR. FRANK: -- if -- 7 HEARING OFFICER SCHAEFER: <small>...not to get the new</small> 8 consent by New York Methodist -- 9 MR. FRANK: And MSO of Brooklyn -- 10 HEARING OFFICER SCHAEFER: -- to -- 11 MR. FRANK: -- to combine -- 12 HEARING OFFICER SCHAEFER: <small>...not to get the new</small> 13 (sic) or New York Methodist to combine them. The Employer and 14 there's no consent by MSO to include their employees in an 15 acute unit. I just -- 16 MR. FRANK: That's right. 17 HEARING OFFICER SCHAEFER: <small>...not to get the new</small> 18 distinctions. 19 MR. FRANK: And no MSO agreement to go into the multi- 20 employer bargaining unit -- 21 HEARING OFFICER SCHAEFER: Okay. 22 MR. FRANK: -- of the League agreement. If the Board 23 determined that there would be a unit as part of the hospital 24 unit, there is still no consent under the Lee Hospital or the 25 Oakwood decisions to join the League agreement, which is what</p>	<p>1 HEARING OFFICER SCHAEFER: <small>...not to get the new</small> 2 the -- 3 MR. FRANK: I have never heard the Union amend its 4 petition, other than to withdraw the office manager title from 5 the Wound Care petition. 6 HEARING OFFICER SCHAEFER: <small>...not to get the new</small> 7 MR. FRANK: No. The point is the Union has not amended 8 the petitions. 9 HEARING OFFICER SCHAEFER: <small>...not to get the new</small> 10 MR. FRANK: Now under the Board's acute health -- rules 11 for acute care institutions, there's the specific provision 12 that multiple residual units shall not be permitted. To the 13 extent that the Board would find the Urology practice or the 14 Wound Care acute care hospital to be part of the hospital, or 15 somehow a joint employer, single employer or whatever, they 16 would be prohibited from finding multiple residual units, as 17 sought by the petition. Still with the Urology practice, the 18 petitioned for unit on its face is inappropriate under the 19 Board's acute care standards for an acute care hospital. 20 If you found this was one entity, notwithstanding our 21 arguments, the LPNs and the other technical employees would be 22 in a different unit than the office assistant and 23 administrative assistants, who would be in the clerical unit. 24 The physician assistants can't be included in a residual unit 25 of all of the other employees, because there is no such unit at</p>
Page 774	Page 776
<p>1 the Union is seeking. In essence these are not residual units. 2 The Board -- the Union is seeking two residual units 3 simultaneously. One -- 4 HEARING OFFICER SCHAEFER: Yeah. 5 MR. FRANK: -- with Wound Care and one at Urology. Right 6 now I have addressed just the Urology petition. The fact that 7 they're seeking two residual units in two different offsite 8 practices is on its face proscribed by Board policy and Board 9 decisions. And for Urology if the Board -- 10 HEARING OFFICER SCHAEFER: <small>...not to get the new</small> 11 have about the definition. Like the way the Board using the 12 term residual. But just want to understand what you're saying. 13 So are you saying if there are -- by definition, because 14 they're seeking two separate units, it's pro -- that's the 15 proliferation of units, because the Wound Care and the Urology 16 would be adding two separate units? 17 MR. FRANK: And in both cases the petition describes them 18 as residual units. I understood what you've said on the 19 record. I'm going by the petition. 20 HEARING OFFICER SCHAEFER: <small>...not to get the new</small> 21 MR. FRANK: The petition -- 22 HEARING OFFICER SCHAEFER: <small>...is wrong.</small> 23 MR. FRANK: -- seeks -- 24 HEARING OFFICER SCHAEFER: <small>I mean --</small> 25 MR. FRANK: Well, that's why it should be dismissed.</p>	<p>1 New York Methodist Hospital. Even if there was, they would be 2 entitled to a self-determination election under Sonotone, 3 because you can't combine professionals with non-professionals 4 without a self determination election. But the whole unit is 5 deficient, because it excludes the registered nurses, who would 6 otherwise be included in the unit, under Board standards in the 7 8 rules. When given the opportunity we will supply case 8 authority on that. 9 Our motion in regard to the Wound Care petition, which is 10 case 172398, again the unit sought by the Union is full time 11 professional and non-professional New York Methodist and MSO 12 Wound Care employees at 1 Prospect Park West residual to 13 existing professional and non-professional unit at the 14 hospital. There is no such existing professional and non- 15 professional at the hospital. 16 Secondly, the Union is not seeking any professional 17 employees of Wound Care. Notwithstanding the claim in the 18 petition seeking professional and non-professional employees, 19 it is not seeking the registered nurse. On its face the unit 20 in -- is not an appropriate unit. Therefore there's no 21 question concerning representation under section 9(c) of the 22 Act. 23 No matter what the Board would determine, in regard to 24 employer, or joint employer, or single employer, or multi- 25 employer or whatever other issues the Union has been raising</p>

<p style="text-align: right;">Page 777</p> <p>1 here, I'm focusing on questions concerning representation. 2 There's not an appropriate unit being sought, whoever the 3 employer may be. Starting with you can't combine professionals 4 and non-professionals, because there's no existing combined 5 professional and non-professional at Methodist Hospital. The 6 professional unit is in the record and it is not combined with 7 any other employees. Therefore the Union's petition for a 8 combined unit when one doesn't exist is inherently defective on 9 its face. 10 More importantly, it is under Board standards you can't 11 combine acute and non-acute institutions in one bargaining unit 12 in the healthcare industry. Again, the hospital units are 13 specifically defined and limited to that location. And that 14 location does not include 1 Prospect Park West. 15 Throughout the 40 year history of the bargaining 16 relationship from 1982 on, the Union has not sought to 17 represent employees at 1 Prospect Park West. So there is an 18 established history of not combining acute care hospital 19 employees with non-acute care hospital. 20 Same problem. If the Board found that this is one entity 21 you still could not combine the employees in the different 22 units into one unit. In the Wound Care there would be two 23 employees who would be eligible to go the clerical unit and 24 three employees could go to the technical unit. In this regard 25 if the Board treated these as separate locations there might be</p>	<p style="text-align: right;">Page 779</p> <p>1 to dismiss the Regional Director will address the -- in order 2 to make rulings on these things, some findings will need to be 3 made by the Regional Director. So that the matter that you've 4 raised will be addressed in the Regional Director's decision. 5 So at this time we're not going to grant the motion to dismiss, 6 but the points that you've raised will be considered as part of 7 the Regional Director's decision, in terms of the ultimate 8 either decision directing an election or decision dismissing 9 the petitions. And in -- 10 MR. FRANK: I was hoping the Hearing Officer could rule on 11 these motions. 12 HEARING OFFICER SCHAEFER: I am -- 13 MR. FRANK: Okay. 14 HEARING OFFICER SCHAEFER: ----- 15 MR. FRANK: No, before the Regional Director. 16 HEARING OFFICER SCHAEFER: ----- 17 briefs, I understand the concerns that have been raised. I'm 18 glad they're on the record that -- about the scheduling. Today 19 is Wednesday. Your statement of position in the other cases in 20 Region Two, which is the Manhattan Region, that you've told me 21 is due at 12:30 -- 12:00 O'clock tomorrow, which is Thursday. 22 And that a hearing has been scheduled for Friday in that 23 matter. And that will continue for presume -- have you been 24 instructed it will continue on consecutive days thereafter? 25 MR. FRANK: Day to day, because there is a statutory issue</p>
<p style="text-align: right;">Page 778</p> <p>1 a combined unit at 1 Prospect Park West Wound Care of the five 2 employees as an appropriate voting group to determine their own 3 fate, but that certainly is not a residual unit to anything at 4 the hospital. 5 Since there's no appropriate unit, we respectfully submit 6 that the petitions need to be dismissed on their face and that 7 issues regarding the Employer that the Union has been raising 8 here don't matter. However those issues are resolved, the 9 petitions are defective on their face, as inconsistent with the 10 non-proliferation provisions and established Board policy 11 regarding units in the healthcare industry. And we would ask 12 that the Region -- Regional Director dismiss each petition, on 13 the grounds that they failed to raise a question concerning 14 representation. 15 As to the Employer issues, obviously we'll address those 16 in the closing, but this motion is really focused on the QCR 17 questions. And we would ask for a ruling on those issues. 18 The second motion I would make, a very simple one, is we 19 respectfully request more time than from today until 5:00 20 O'clock Monday to file the points of authority. As the 21 Regional Director well knows, we've been ordered to another 22 hearing in another matter on Friday and we do not believe this 23 is sufficient time to respond with points of authority. So I 24 would make that as a second motion. 25 HEARING OFFICER SCHAEFER: -----</p>	<p style="text-align: right;">Page 780</p> <p>1 involved in that case. 2 HEARING OFFICER SCHAEFER: ----- 3 going to request that the briefs are due -- I'm sorry, not the 4 briefs. The memos of points and authority are due at 5:00 5 O'clock Monday, but -- so I am -- that's -- I'm not going to 6 change that, but I note your 7 MR. FRANK: I -- 8 HEARING OFFICER SCHAEFER: ----- 9 Board has contributed to. 10 MR. FRANK: Oh, I -- 11 HEARING OFFICER SCHAEFER: For the record. 12 MR. FRANK: So I appreciate the Hearing Officer's -- what 13 you've done for us. I'm just raising it as a Constitutional 14 issue of denial of due process and the right of a counsel to 15 represent a client. 16 HEARING OFFICER SCHAEFER: I understand. 17 MR. FRANK: And I fully believe that it's the problem with 18 the rules that the Board has adopted. And our challenge will 19 be to both the rules as adopted and -- 20 HEARING OFFICER SCHAEFER: Okay. 21 MR. FRANK: I understand your constrained to follow those 22 rules, but -- 23 HEARING OFFICER SCHAEFER: And I understand that. 24 MR. FRANK: -- I would like to put that notice on the 25 record.</p>

Page 781	Page 783
<p>1 HEARING OFFICER SCHAEFER: <small>That's like And then</small></p> <p>2 Constitutional issues, I believe, we also raised in the</p> <p>3 statement position as well.</p> <p>4 MR. FRANK: Yes, they were.</p> <p>5 HEARING OFFICER SCHAEFER: Okay.</p> <p>6 MR. FRANK: And by the way, for sake of brevity I didn't</p> <p>7 go through everything in that initial statement, but --</p> <p>8 HEARING OFFICER SCHAEFER: Right.</p> <p>9 MR. FRANK: -- I do repeat that.</p> <p>10 HEARING OFFICER SCHAEFER: <small>...from the top</small></p> <p>11 So I am -- we're going to move to closing statements. Partly</p> <p>12 out of the need for brevity, I'm not -- I do think that the</p> <p>13 points that the -- that Mr. Frank, you just made, are also part</p> <p>14 and parcel of comments that -- I don't ever -- I don't need you</p> <p>15 to necessarily repeat all of those things in your -- so I'll --</p> <p>16 we'll take note of the motion that you just made as part of the</p> <p>17 overall argument of both New York Methodist M -- and MSO. So</p> <p>18 would you like to continue with a --</p> <p>19 MR. FRANK: Sure.</p> <p>20 HEARING OFFICER SCHAEFER: <small>With your --</small></p> <p>21 MR. FRANK: The --</p> <p>22 HEARING OFFICER SCHAEFER: <small>...closing statement</small></p> <p>23 MR. FRANK: I think the most important fact that's come</p> <p>24 out in this record is there is no interchange between the</p> <p>25 employees of MSO of Kings County in the Wound Care practice and</p>	<p>1 were approximately 15. And the Union is looking to represent</p> <p>2 employees at one location with five employees and another</p> <p>3 location with approximately 15 or 16 employees. This is</p> <p>4 proliferation of units in the worst form.</p> <p>5 There is no evidence in this record of joint employer</p> <p>6 status, in terms of the determination of decisions regarding</p> <p>7 labor relations matters. And there is no basis for determining</p> <p>8 a single employer status, as the Union has urged. MSO of Kings</p> <p>9 County is a for profit organization that services physician</p> <p>10 practices. New York Methodist Hospital is a New York not for</p> <p>11 profit corporation that provides acute healthcare.</p> <p>12 The 990 form that's submitted by the Union into this</p> <p>13 record demonstrates that these are separate institutions. And</p> <p>14 while they're reported as -- on those tax forms by the</p> <p>15 government, there is no basis for finding a single or joint</p> <p>16 employer.</p> <p>17 In any event, as we said in the motion, that's not a</p> <p>18 determinative issue here. The question in a representation</p> <p>19 case is whether there is a question concerning representation</p> <p>20 and QCR, in terms of Board lingo. What is a QCR? It's whether</p> <p>21 there is a question concerning representation.</p> <p>22 The Board has established criteria on what it looks for in</p> <p>23 determining whether there is a question concerning</p> <p>24 representation. I think there are four factors. Factors the</p> <p>25 Board consider in determining whether a community of interest</p>
Page 782	Page 784
<p>1 Methodist Hospital. And there's no interchange of employees</p> <p>2 between the Urology practice of MSO of Kings County and New</p> <p>3 York Methodist Hospital. Each and every witness testified</p> <p>4 that, absent very minor exceptions, there is no contact or</p> <p>5 interchange between employees of the two institutions.</p> <p>6 None of the work performed by MSO of Kings County</p> <p>7 employees is done in the hospital, nor is any hospital employee</p> <p>8 assigned to work at MSO of Kings County Urology or Wound Care.</p> <p>9 They have different working conditions. 9:00 to 5:00 Monday</p> <p>10 through Friday at 1 Prospect Park West. The hospital is 24/7,</p> <p>11 seven days a week. The hospital employees wear uniforms with</p> <p>12 blue identification tags. MSO employees do not have to wear</p> <p>13 uniforms and they have yellow identification.</p> <p>14 MSO services a physician's practice. A physician's</p> <p>15 practice is separate from an acute care hospital. I think the</p> <p>16 record is very clear on the distinctions.</p> <p>17 MSO Urology has an office manager who makes decisions on</p> <p>18 hiring, firing, discipline. All the indicia of employment.</p> <p>19 MSO of Kings County Wound Care also has a director who's the</p> <p>20 office manager who makes the same decisions regarding terms and</p> <p>21 conditions of employment. Both of those office managers report</p> <p>22 to MSO's Joanne Kennedy, who is responsible for implementing</p> <p>23 human resource policies at all of the MSO facilities.</p> <p>24 We note that there are many MSO facilities that are not</p> <p>25 involved in this case. I believe Ms. Kennedy testified there</p>	<p>1 on employees includes different hours of work or same hours of</p> <p>2 work. Here we have different hours of work.</p> <p>3 Separate supervision. Here we have established that the</p> <p>4 office managers supervise the employees of the Urology practice</p> <p>5 and the Wound Care practice. They report to Ms. Kennedy, which</p> <p>6 is a separate of supervision than in the hospital.</p> <p>7 The job titles and job qualifications are different from</p> <p>8 all of the hospital job titles. The Union put in a long list</p> <p>9 of hospital job titles. None of those are the same job titles</p> <p>10 as MSO of Kings County.</p> <p>11 There's no evidence that the LPNs of MSO of Kings County</p> <p>12 do the same work as the MS - as the LPNs at New York Methodist</p> <p>13 Hospital. And in fact, while they have licenses as LPNs, they</p> <p>14 have different job titles and different job descriptions. That</p> <p>15 is because a doctor's practice uses LPNs differently than they</p> <p>16 are in a hospital. In a reading of the record, there's no</p> <p>17 showing that there's ever been interchange of LPNs between the</p> <p>18 hospital and the MSO.</p> <p>19 There's no evidence of joint training, beyond common</p> <p>20 orientation for one day. There is no evidence of interchanging</p> <p>21 job functions, changing -- employees don't interchange lockers.</p> <p>22 There's no frequent contact. In fact, there's contact at all,</p> <p>23 other than a possible delivery once a day or once of week of</p> <p>24 packages. Just like the mailman comes and delivers mail, that</p> <p>25 doesn't establish community of interest.</p>

Page 785	Page 787
<p>1 So under the Board's traditional standards, there is no 2 basis for finding a community of interest between the hospital 3 employees and the MSO employees. Most importantly in 4 bargaining history, despite the long history, there's never 5 been a prior claim by the Union to represent these individuals. 6 In fact, pursuant to the stipulations and agreements they've 7 been specifically excluded. 8 As under all other employees, titles have been listed and 9 everybody else has been excluded. Given that specific 10 exclusion, the Union can't claim them now as part of the -- of 11 a quote residual unit. They can't claim them as part of a self 12 determination unit, because they were specifically excluded in 13 the past. Based on everything that has occurred, we believe 14 that no question concerning representation has been raised 15 against any Employer entity and that the petition in the 16 Urology case and that the petition in the Wound Care facility 17 case be dismissed. 18 HEARING OFFICER SCHAEFER: <small>... ..</small> 19 the Regional Director were to find that MSO is the sole 20 employer or that there's a joint employer situation and that -- 21 and given the consent withdraw, right? 22 MR. FRANK: No consent. 23 HEARING OFFICER SCHAEFER: <small>... ..</small> 24 consent to be part of the multi-employer unit. Could the 25 Regional Director then direct an election among all of the</p>	<p>1 MR. FRANK: -- to the extent -- 2 HEARING OFFICER SCHAEFER: <small>... denied.</small> 3 MR. FRANK: -- they claim that's part of that, this is 4 part of the fragmentation. I don't know what their position is 5 going to be. 6 HEARING OFFICER SCHAEFER: <small>... ..</small> 7 asking, right. You talk about like bargaining history and 8 everything, but if in fact MSO is a separate entity then there 9 is no bargaining history at MSO. So could the Regional 10 Director just direct an election at the physician's practice in 11 Wound Care among all of the employees there? 12 MR. FRANK: <small>Among the five employees, our position is yes.</small> 13 HEARING OFFICER SCHAEFER: <small>... ..</small> 14 Urology? 15 MR. FRANK: No, because the physician assistants should 16 not be included in that unit without the R -- in other words, 17 they're splitting RNs. 18 HEARING OFFICER SCHAEFER: <small>... ..</small> 19 acknowledge it's a hypothetical -- 20 MR. FRANK: That's why is different is different though. 21 HEARING OFFICER SCHAEFER: <small>... ..</small> 22 the PAs -- could they be part of the unit, subject to Sonotone? 23 MR. FRANK: No, I don't -- do not believe that would be 24 appropriate to mix those units? 25 HEARING OFFICER SCHAEFER: Why?</p>
Page 786	Page 788
<p>1 employees at the location? Like for -- just dealing -- let's 2 just deal with Wound Care for a sec. Assuming that it's a 3 joint employer and there's no consent to join a multi-employer, 4 could the Regional Director direct an election among just the - 5 - among all of the employees working in Wound Care, with the 6 understanding that any professionals would be -- would have a 7 Sonotone ballot? What's the Employer's -- what's MSO's 8 position? 9 MR. FRANK: We believe it's an inappropriate unit 10 petition. By the way, so it's also clear there is no petition 11 involving the foot clinics. I mean -- 12 HEARING OFFICER SCHAEFER: <small>... ..</small> 13 - 14 MR. FRANK: Well, but -- 15 HEARING OFFICER SCHAEFER: <small>I'm not --</small> 16 MR. FRANK: -- the Union tried to merge that into the 17 Wound Care. So they tried -- 18 HEARING OFFICER SCHAEFER: <small>Right, but --</small> 19 MR. FRANK: -- to split that. 20 HEARING OFFICER SCHAEFER: <small>... ..</small> 21 have that. 22 MR. FRANK: What? 23 HEARING OFFICER SCHAEFER: <small>I -- they --</small> 24 MR. FRANK: Well -- 25 HEARING OFFICER SCHAEFER: <small>... ..</small></p>	<p>1 MR. FRANK: Because there's -- 2 HEARING OFFICER SCHAEFER: <small>It's not acute.</small> 3 MR. FRANK: There's no -- 4 HEARING OFFICER SCHAEFER: <small>... ..</small> 5 -- let me just articulate my question. And I apologize for 6 cutting you off. 7 MR. FRANK: Uh-huh. 8 HEARING OFFICER SCHAEFER: <small>... ..</small> 9 finding that New York Methodist is at best a joint employer and 10 that it's not an acute care facility, then would it be -- 11 subject to having the professionals and non-professionals 12 combined subject to Sonotone, would that be appropriate? 13 MR. FRANK: No. The problem the Union has created is by 14 not seeking the registered nurses they would not be seeking all 15 of the professional employees. 16 HEARING OFFICER SCHAEFER: <small>... ..</small> 17 Because they're not listed on the petition? 18 MR. FRANK: No, they've specifically disclaimed seeking 19 the registered nurses. 20 HEARING OFFICER SCHAEFER: <small>... ..</small> 21 Okay. 22 MR. FRANK: A unit of non-professional employees at MSO 23 Brooklyn would be subject to the Board's usual non-acute care 24 unit determinations. And there might well be a community of 25 interest of the non-professional employees.</p>

Page 789	Page 791
<p>1 HEARING OFFICER SCHAEFER: <small>...to the person...</small></p> <p>2 now it would carve out the RN alone. And that's problematic.</p> <p>3 MR. FRANK: And that's why you can't have the physician</p> <p>4 assistants, because now you're talking about some, but not all</p> <p>5 professionals.</p> <p>6 HEARING OFFICER SCHAEFER: <small>...to you, that you, that</small></p> <p>7 I'd like to heard from the --</p> <p>8 MR. FRANK: By the way, if the Director was going there, I</p> <p>9 think -- I would like to be able to address at that point about</p> <p>10 whether it's appropriate to combine the technical, clerical and</p> <p>11 service in a physician practice unit. You know, I don't</p> <p>12 anybody has addressed that issue, but that might well be an</p> <p>13 appropriate unit.</p> <p>14 HEARING OFFICER SCHAEFER: <small>...to combine doesn't</small></p> <p>15 MR. FRANK: Yes. For that practice.</p> <p>16 HEARING OFFICER SCHAEFER: <small>...to you, because make your</small></p> <p>17 scenario though, the Regional Director would be finding that</p> <p>18 it's not acute. So why would the -- so the acute care</p> <p>19 classifications wouldn't apply. Right? So there would be no</p> <p>20 concern about technical, clerical.</p> <p>21 UNIDENTIFIED SPEAKER: <small>There's still a community of</small></p> <p>22 interest issue though.</p> <p>23 HEARING OFFICER SCHAEFER: Yes.</p> <p>24 MR. FRANK: Yeah.</p> <p>25 HEARING OFFICER SCHAEFER: <small>Yes. Though --</small></p>	<p>1 agreement between the Union and the League, which is Union</p> <p>2 exhibit 38, does provide for an agreement by the hospital that</p> <p>3 facilities under their direction and control, under article one</p> <p>4 of the contract, does provide for the Union to represent</p> <p>5 employees. So even if you were to address the fact that New</p> <p>6 York Methodist Hospital is solely an acute care hospital, but</p> <p>7 their own agreement they agree to include other facilities</p> <p>8 under direction and control.</p> <p>9 And under Union exhibit 30(b) there's reference to -- on</p> <p>10 page four, ambulatory and primary care offsite agreement.</p> <p>11 That's -- which the parties also agreed to in 2014.</p> <p>12 Recognizing the fact that there is -- we're here before the</p> <p>13 Board and it's not a contractual issue, but there is an</p> <p>14 agreement by the hospital to include facilities that are not</p> <p>15 directly at the hospital itself. But one of the -- you know,</p> <p>16 the arguments that has been repeatedly stated by, I guess, MSO</p> <p>17 and New York Methodist Hospital is the fact that only New York</p> <p>18 Methodist Hospital is an acute care hospital and then to the</p> <p>19 extent there are other locations that are not part of their</p> <p>20 acute care services, the reality is that an -- by virtue of the</p> <p>21 definition, an acute care hospital can include non-acute care</p> <p>22 services. So it does not have to be the emergency room, or the</p> <p>23 surgeries or whatever that provide for what makes a hospital</p> <p>24 solely a acute care hospital, but it also can provide for non-</p> <p>25 acute care services.</p>
Page 790	Page 792
<p>1 MR. FRANK: We -- look, we've said from the beginning we -</p> <p>2 -</p> <p>3 HEARING OFFICER SCHAEFER: Right.</p> <p>4 MR. FRANK: -- thought that was the appropriate --</p> <p>5 HEARING OFFICER SCHAEFER: <small>Though --</small></p> <p>6 MR. FRANK: -- unit.</p> <p>7 HEARING OFFICER SCHAEFER: <small>...to the end of the page</small></p> <p>8 creating six units might be a bit much.</p> <p>9 MR. FRANK: <small>You know what? You took the words out of my</small></p> <p>10 mouth. And that's really true in the acute care hospital</p> <p>11 context, that they're seeking to do as residual units. That's</p> <p>12 our point.</p> <p>13 HEARING OFFICER SCHAEFER: Okay.</p> <p>14 MR. FRANK: Thank you.</p> <p>15 HEARING OFFICER SCHAEFER: <small>...to the person...</small></p> <p>16 from the Petitioner. And I may just have some back and forth,</p> <p>17 just to press on some stuff as we go. But I'm going to let the</p> <p>18 Petitioner --</p> <p>19 MS. WILCOX: Thank you.</p> <p>20 HEARING OFFICER SCHAEFER: <small>...to the person...</small></p> <p>21 MS. WILCOX: Yeah. Just briefly, you know, with -- the</p> <p>22 Petitioner, you know, obviously opposes any motion to dismiss.</p> <p>23 And we'll address most of these issues in -- with regard to --</p> <p>24 with memo -- in our memo and with points of authority. But I</p> <p>25 would note that the -- you know, the collective bargaining</p>	<p>1 And in fact that's what New York Methodist Hospital has</p> <p>2 done. I mean they -- by virtue -- by looking -- by the</p> <p>3 numerous documents that were placed into the record in this</p> <p>4 hearing, it is evident that the hospital is -- provides both</p> <p>5 inpatient and outpatient services. Those outpatient services</p> <p>6 are a big part of what -- the services that they market to the</p> <p>7 public and provide services to all their patients. And there's</p> <p>8 no distinction between whether they're -- you know, they're</p> <p>9 patients, whether they're inpatient or outpatient services.</p> <p>10 So that -- and to the extent that art -- the -- that the</p> <p>11 Wound Care Center is part of and encompassed in Article 28 of</p> <p>12 the hospital's operating certificate, which gives it the</p> <p>13 authority to provide services by state law, they are in fact --</p> <p>14 the Wound Care, I'm not even clear of the hospital's position.</p> <p>15 That the Wound Care Center is really part of -- it is in fact</p> <p>16 part of the services provided by the hospital. So -- and it</p> <p>17 can -- and it's functioning by virtue of the Article 28</p> <p>18 operating certificate.</p> <p>19 So that it is appropriately -- appropriate for the</p> <p>20 Petitioner to be petitioning to have employees who are working,</p> <p>21 and we say both at Wound Care as well as Urology, because the</p> <p>22 hospital in fact treats them the same. That they are -- that</p> <p>23 we're seeking to have those employees included into the</p> <p>24 contract that -- to both inclusion into the League agreement</p> <p>25 that covers the employees that work solely within the hospital.</p>

<p style="text-align: right;">Page 793</p> <p>1 I think we believe that the record establishes that -- you 2 know, that New York Methodist Hospital was the entity that 3 created MSO. Created it in April of 2010. New York Methodist 4 Hospital is the only member of MSO. MSO is -- has -- you know, 5 is -- you know, every -- the employees themselves don't see -- 6 they see themselves as being part of New York Methodist 7 Hospital, by virtue of their IDs, whether it's yellow, blue or 8 any other color. They are part of New York Methodist. 9 Many of them apply for positions. They go on the New York 10 Methodist website and somehow get steered to, you know, an MSO. 11 And, you know, they don't know the distinction between MSO and 12 New York Methodist Hospital, when they're applying for a 13 position. They go to HR, human resources. That building is 14 listed in the New York Methodist Hospital. And they virtually 15 have very little interaction with MSO. 16 So what is MSO? I think, you know, the -- they report -- 17 you know, the filings by -- and also the stipulation indicate 18 that -- you know, which we agreed to -- the Union agreed to 19 that they -- they're a management service organization provided 20 -- that's providing administrative services to physician 21 practices. But it's not solely physician practices. And so 22 they have both Urology and the -- and Wound Center. 23 But when those employees go through orientation they are 24 part of -- at first introductions they're part of an 25 orientation at New York Methodist Hospital. And from that time</p>	<p style="text-align: right;">Page 795</p> <p>1 were requested by the Petitioner, to the extent that there are 2 any gaps in information or discrepancies -- 3 MR. FRANK: I move to strike. 4 HEARING OFFICER SCHAEFER: <small>Hang on, hang on.</small> 5 MR. FRANK: That's not appropriate in this. That's a 6 separate record issue. That's the whole point of separate 7 records. There's -- 8 MS. WILCOX: I have a right to -- this is -- 9 HEARING OFFICER SCHAEFER: <small>Hang on.</small> 10 MS. WILCOX: Okay. 11 HEARING OFFICER SCHAEFER: <small>Hang on.</small> 12 just to clarify, is not to -- 13 MR. FRANK: That's a prejudicial statement to imply those 14 things that aren't in the record that the Union wants. That 15 doesn't belong in this record. That's why this is a separate 16 record. 17 HEARING OFFICER SCHAEFER: <small>Hang on.</small> 18 necessarily to insulate from one record the fact that -- 19 MR. FRANK: No, the third record. 20 HEARING OFFICER SCHAEFER: <small>Hang on.</small> 21 MR. FRANK: The record is limited to what's in -- 22 HEARING OFFICER SCHAEFER: Stop. 23 MR. FRANK: -- the record. 24 HEARING OFFICER SCHAEFER: <small>Hang on.</small> 25 one second. Okay. I'm going to make the following ruling</p>
<p style="text-align: right;">Page 794</p> <p>1 forward they are -- have access to the intranet. They have -- 2 they wear IDs and they, you know, serve -- their supplies, 3 meaning the supplies that they have to order, in order to their 4 jobs, come and -- come though New York Methodist Hospital. 5 So there's -- we believe that there's evidence in the 6 record to establish that there is sufficient relationship 7 between -- you know, common ownership between MSO, as well as 8 New York Methodist Hospital. The two members who are members 9 of MSO are the senior vice president of the hospital as well as 10 the vice president of the hospital responsible for human 11 resources. And that there is -- besides ownership, that there 12 is common management, as well as the fact that there is control 13 of the labor relations. 14 So we believe that New York Methodist Hospital could 15 rightly be found to be a sole employer and that MSO is really 16 just created solely to provide services and, you know, 17 staffing, but New York Methodist is -- does control MSO. And 18 to the extent that they -- there's -- but alternatively that 19 they -- MSO and New York Methodist are a single employer or a 20 joint employer. And we believe that the -- you know, the facts 21 in the record will support finding -- a finding that New York 22 Methodist is a party -- is rightly a party to this proceeding, 23 as well as MSO. 24 And to the extent that the Employer, whether it's MSO or 25 New York Methodist Hospital, has not provided documents that</p>	<p style="text-align: right;">Page 796</p> <p>1 about the limitation of information. The subpoena record's 2 purpose is to, where necessary, create a record so that someone 3 down the line may rule on subpoena enforcement issues of issues 4 that arise before the Board concerning subpoena issues. To the 5 extent that those issues may arise down the line or we've had a 6 indication that they won't arise down the line, the -- we have 7 a subpoena record where that information can go. 8 In this particular case, the -- I'm going to ask the 9 Petitioner to limit comments to what -- rulings on the 10 documents that have come into this record. If there's a 11 concern about records that haven't come into this record, then 12 subpoena enforcement is an option in the alternative. And so 13 while I'm not -- I think it's appropriate to -- we're all aware 14 there's a subpoena record, but in terms of an argument about -- 15 the question right here is what's come into the record, what is 16 on the record now and how those -- that stuff should be enter - 17 - how those documents should be interpreted, to prove or 18 disprove the argument being asserted by the Petitioner. So the 19 question -- so, in terms of as you proceed, the question really 20 at this point is just what's come into the record and what does 21 it mean for the decision that's before the Regional Director, 22 in terms of joint employer and community of interest and the 23 other issues that are arising? 24 MS. WILCOX: Okay. Well, I will respect your ruling and I 25 will, I guess, address it separately, but the -- I mean based</p>

Page 797

1 upon the facts, we believe that, you know, we've established
2 sufficiently that New York Methodist Hospital is a rightful
3 party here. And we'll -- any further comments we will address
4 in our memo on points of authority that are to be submitted by
5 Monday. The -- and with respect to the unit, those employees -
6 - you know, I think we've established sufficiently that those
7 employees should in fact be included in the overall League unit
8 at New York Methodist Hospital. And lastly, we would proceed
9 to an election in any unit that the Board deems appropriate
10 under the facts.
11 HEARING OFFICER SCHAEFER: Okay. Alright.
12 MR. FRANK: May I just say one thing? One sentence. I
13 forgot to mention one thing.
14 HEARING OFFICER SCHAEFER: Okay.
15 MR. FRANK: The Board has a long standing presumption of
16 single facility units is appropriate in unit determinations in
17 healthcare.
18 HEARING OFFICER SCHAEFER: So --
19 MR. FRANK: Another -- one thing I forgot to say why the
20 unit is inappropriate --
21 HEARING OFFICER SCHAEFER: Okay.
22 MR. FRANK: -- the single facility is the presumptively
23 appropriate unit. And I would say the record evidence doesn't
24 show any reason why the single unit facility is the
25 presumptively appropriate unit here.

Page 798

1 HEARING OFFICER SCHAEFER: Okay. Thank you for the question.
2 to respond to that at all?
3 MS. WILCOX: No, no --
4 HEARING OFFICER SCHAEFER: Alright.
5 MS. WILCOX: -- response is needed.
6 HEARING OFFICER SCHAEFER: Okay. Alright. Thank you.
7 to close the record for today. The -- I just want to say on
8 the record thank you for everyone being here, you know,
9 consecutive days, with the exception of Friday. I recognize
10 from my experience that this can -- I appreciate everybody
11 being here sitting through this process.
12 MR. FRANK: And thank you.
13 HEARING OFFICER SCHAEFER: And so --
14 MS. WILCOX: Thank you --
15 HEARING OFFICER SCHAEFER: -- thank you.
16 MR. FRANK: Thank you for a --
17 HEARING OFFICER SCHAEFER: Alright.
18 MS. WILCOX: Thank you for your service.
19 HEARING OFFICER SCHAEFER: Let's go off the record.
20 (Whereupon, at 2:24 p.m. the hearing in the above-entitled
21 matter was closed)

Page 799

C E R T I F I C A T E

This is to certify that the attached proceedings done before
the NATIONAL LABOR RELATIONS BOARD REGION TWENTY NINE

In the Matter of:

NEW YORK METHODIST HOSPITAL/MSO OF KINGS COUNTY, LLC,

Employer,

And

1199 SEIU, UNITED HEALTHCARE WORKERS EAST,

Petitioner.

Case No.: 29-RC-172410

Date: April 13, 2016

Place: Brooklyn, NY

Were held as therein appears, and that this is the original
transcript thereof for the files of the Board

Official Reporter

BURKE COURT REPORTING, LLC
1044 Route 23 North, Suite 206
Wayne, New Jersey 07470
(973) 692-0660

1	1881 (1) 684:17	30a (1) 768:15	8 (1) 776:7	777:11,18;782:15; 783:11;788:2,8,10; 789:18,18;790:10; 791:6,18,20,21,24,25
	18th (1) 767:13	30b (2) 768:15;791:9	9	add (2) 713:4;772:9
1 (49) 668:18;669:6; 677:15,18,23;678:3; 679:5,9,22;680:1; 681:15;682:15,17; 686:10,19,21;689:10; 698:20;703:4; 704:17;707:6; 711:17;716:9; 725:21;727:8,10; 728:6,24;729:2; 732:12;735:20,23; 744:24;745:1,2; 747:7;756:11,14; 757:3;760:21;768:9, 11;769:18;771:6; 776:12;777:14,17; 778:1;782:10	19 (1) 678:6	35 (4) 674:17,18;676:20, 23	9:00 (1) 782:9	added (1) 692:6
	1982 (1) 777:16	36 (7) 666:4;677:2; 678:19;685:6; 705:21;706:13;715:4	9:48 (1) 661:2	adding (1) 774:16
1:24 (1) 765:2	2	37 (5) 710:17,23;712:22; 721:17,19	990 (1) 783:12	addition (4) 714:20;761:13; 770:11;772:7
	2:24 (1) 798:20	38 (2) 713:13;791:2	9c (2) 772:5;776:21	additional (3) 721:15;743:22; 756:2
100% (1) 712:2	20 (3) 706:12,14,15	39 (1) 715:25	9th (3) 686:24;687:5; 705:17	Additionally (3) 711:20;712:6,11
	200 (1) 713:8	4	A	address (10) 662:1;698:16; 767:11;778:15; 779:1;789:9;790:23; 791:5;796:25;797:3
104 (2) 711:23,24	2010 (5) 666:12;667:3,17; 712:14;793:3	40 (4) 717:12,15;718:21; 777:15	abide (1) 697:5	addressed (3) 774:6;779:4; 789:12
	2012 (3) 666:19,23;699:10	41 (3) 719:17;720:8; 721:1	abilities (1) 692:6	addresses (1) 711:24
106 (1) 712:6	2013 (2) 711:1;759:17	41a (2) 719:25;720:9	able (2) 760:1;789:9	adjacent (1) 686:4
	2014 (11) 711:2;713:14; 747:19;750:25; 754:15,18;755:1,5,6, 9;791:11	42 (5) 721:5,11,24;722:3, 11	above-entitled (1) 798:20	administering (1) 690:6
1199 (4) 762:16;768:12,13; 769:20	2015 (17) 713:15;747:13,17, 24,25;748:20,21; 749:14;750:15; 751:7,12;754:12; 755:5;756:17,22,25; 759:2	4th (1) 673:17	absent (1) 782:4	administrative (8) 661:11;663:18; 694:22;712:16; 766:24;769:21; 775:23;793:20
	2016 (12) 667:12;673:17; 749:5,11;750:17; 751:5;754:10; 755:20;756:6,9,12,15	5	Absolutely (1) 690:23	administrator (2) 671:15;673:15
12 (1) 751:17	21st (1) 699:8	5,000 (1) 684:7	accept (1) 767:20	adopted (2) 780:18,19
	24/7 (1) 782:10	5:00 (5) 767:12,24;778:19; 780:4;782:9	accepted (1) 726:22	Adult (1) 684:14
12:00 (1) 779:21	25 (1) 685:9	506 (2) 663:25;711:25	access (1) 794:1	advertisements (1) 705:24
	26 (1) 713:23	506th (1) 725:6	accommodated (1) 682:2	advice (1) 690:8
12:26 (1) 764:19	263 (1) 706:18	6	accurate (2) 690:5,24	advise (1) 701:3
	28 (16) 665:22,25;689:13; 696:4,9,11,25;697:8; 698:1,4,5;702:4; 771:8,12;792:11,17	65 (1) 711:16	acknowledge (1) 787:19	advising (1) 671:25
12:30 (1) 779:21	29-RC-172410 (2) 661:6;769:7	650 (1) 683:22	acknowledged (1) 672:3	advisory (5) 665:3,3;681:2,4; 699:19
	3	6th (2) 711:25;770:21	across (2) 669:16;685:5	Affairs (1) 689:8
13 (2) 689:21;790:7	30 (1) 721:18	7	Act (3) 772:5,6;776:22	affected (2) 682:13,22
		7th (3) 687:7,8;706:18	action (2) 681:22;753:22	affiliate (1) 663:3
13th (1) 661:5		8	activity (1) 712:1	affiliated (2) 663:4,21
			actually (10) 670:20,22;681:2; 696:25;697:2; 705:23;725:19; 741:21;742:9;759:20	afterwards (1)
14 (2) 689:21;751:3			acute (32) 683:21;770:16,17, 18,20;771:7,14,20, 22;772:8;773:15; 775:10,11,14,19,19;	
15 (6) 677:21;749:17; 750:16;759:1;783:1, 3				
16 (8) 666:7,8,9,10;716:3, 11;759:20;783:3				
17 (5) 689:18,20,21,22; 716:14				
172398 (3) 661:10;766:25; 776:10				
172410 (3) 661:5,9;766:23				
18 (2) 666:7;678:1				

672:9 again (17) 668:15;692:8; 694:13;695:9;696:4; 699:17;701:19; 724:4;737:12; 753:10;755:2;759:7; 763:18;766:21; 767:24;776:10; 777:12 against (1) 785:15 Agency (2) 763:16,18 ago (4) 666:9,10;682:24, 25 agree (2) 730:19;791:7 agreed (3) 791:11;793:18,18 agreement (13) 680:8,13;773:1,3, 19,22,25;791:1,2,7, 10,14;792:24 agreements (1) 785:6 Ah (1) 764:13 ahead (9) 683:14;686:8; 724:14;725:24; 728:2,20;732:6; 743:23;761:9 alarm (1) 753:25 allow (2) 667:13;735:4 Almost (1) 689:24 alone (1) 789:2 Alright (49) 661:4,4,12;662:3; 671:6;683:15;686:8; 693:19;696:3;699:4; 701:21;705:7; 708:18;710:16,16; 712:22;715:14,19; 716:12;717:5;718:1; 720:23;726:19; 727:5;728:2;741:24; 742:24;743:17; 746:9;753:7;758:19; 760:3,16;763:17,19; 764:11,18;766:3,19, 20;768:2;769:5; 775:6;781:10; 790:15;797:11; 798:4,6,17 alternative (1) 796:12 alternatively (1)	794:18 ambulatory (5) 675:4;684:3; 691:12;720:13; 791:10 amend (1) 775:3 amended (1) 775:7 among (5) 785:25;786:4,5; 787:11,12 amount (1) 712:9 anesthesiologists (1) 692:10 annual (1) 713:14 answered (3) 696:6;709:17; 761:25 apologize (1) 788:5 appear (2) 671:12;678:13 appeared (1) 661:16 appearing (1) 661:6 appears (1) 711:1 append (1) 772:22 appending (1) 771:13 applied (1) 702:7 applies (3) 722:8;743:19; 769:4 apply (6) 690:13,15;744:23, 25;789:19;793:9 applying (1) 793:12 appointment (1) 704:12 appreciate (2) 780:12;798:10 approach (1) 695:5 approaching (1) 699:24 appropriate (22) 692:3,5;770:1,15; 771:21,22;776:20; 777:2;778:2,5; 787:24;788:12; 789:10,13;790:4; 792:19;795:5; 796:13;797:9,16,23, 25 appropriately (4)	662:1;669:1,4; 792:19 approval (2) 738:6,7 approve (1) 665:14 approving (1) 669:18 Approximate (1) 689:23 approximately (4) 689:16;754:13; 783:1,3 April (6) 661:5;666:12; 667:1;712:14; 767:12;793:3 area (3) 662:20;667:22; 708:23 areas (1) 683:1 aren't (3) 691:24;748:6; 795:14 arguendo (1) 771:18 arguing (1) 713:8 argument (4) 771:20;781:17; 796:14,18 arguments (4) 767:1;768:3; 775:21;791:16 arise (3) 796:4,5,6 arising (1) 796:23 Army (1) 707:7 around (2) 688:20;747:14 art (1) 792:10 Arthritis (2) 682:18;768:11 Article (19) 665:22,25;689:13; 696:4,8,9,11,25; 697:8,17;698:1,2,4; 702:4;771:8,12; 791:3;792:11,17 articulate (1) 788:5 articulated (1) 772:25 asserted (1) 796:18 assesses (1) 691:16 assessment (1) 737:4	assigned (3) 761:20,22;782:8 assignment (1) 761:18 assist (1) 690:6 assistance (1) 737:7 assistant (12) 662:19;664:13; 666:5;675:4;769:21, 21,22,22,23,23; 770:12;775:22 assistants (7) 770:7;772:12,17; 775:23,24;787:15; 789:4 assists (1) 692:12 associated (2) 732:23;733:1 Associates (5) 676:16;693:7,9; 707:18,19 assume (4) 672:24;673:4; 685:18;706:1 assumed (1) 666:18 assuming (6) 672:20;740:24; 741:21;771:18; 785:18;786:2 attached (1) 710:21 attention (4) 685:9;687:11; 731:16,19 Attorney (1) 710:21 audible (1) 755:15 audio (1) 700:8 authorities (1) 767:14 authority (10) 767:4,4,10;776:8; 778:20,23;780:4; 790:24;792:13;797:4 Authorizations (1) 691:19 available (4) 688:12;731:2; 761:15,23 Avenue (3) 687:7,8;706:18 aware (3) 681:18,20;796:13 away (2) 686:21;687:1 awning (1) 708:1	Aye (3) 751:10,10,10 <hr/> B <hr/> back (6) 666:24;669:6; 712:13;741:4,6; 790:16 background (1) 766:4 backwards (1) 711:21 bad (3) 699:4;729:22; 730:4 badge (1) 765:8 ballot (1) 786:7 barcode (1) 735:18 bargaining (10) 771:22;772:9; 773:2,20;777:11,15; 785:4;787:7,9; 790:25 barley (1) 685:24 Barry's (1) 713:4 Based (2) 785:13;796:25 basement (1) 725:6 basic (6) 728:20;729:8,8; 731:12;732:15; 772:22 basically (4) 735:5;737:5;738:4; 739:23 basis (3) 783:7,15;785:2 batteries (1) 752:24 battery (15) 748:22,25;751:16, 17,18,19,24;753:9, 11,15,16,17,21,23,23 became (1) 772:6 beds (7) 683:22;692:15,17, 24;693:1,2,2 began (2) 666:15;727:15 beginning (1) 790:1 believes (1) 715:10 belong (1) 795:15
---	--	---	--	---

belongs (2) 748:4,8	675:13;693:12	673:3;676:23;680:3;	736:22	683:23;770:22
besides (5) 674:1;675:11; 740:8;760:23;794:11	breaks (3) 732:17;736:20,24	685:6,9,14,24; 688:18;689:25; 691:3,23;692:7; 696:21;698:23,24; 699:8;706:23; 708:19;710:6,12; 714:2;718:25;719:6; 724:13,14;726:6,13; 727:9;728:19;730:6; 8;737:8,8,9;744:22; 761:9;763:7;764:17; 791:21,24;792:17; 796:7;798:10	careful (1) 740:25 Carrington (2) 685:15,20 carve (1) 789:2 case (35) 661:9,10;692:3,12, 15,18;708:13; 709:11;711:15; 713:10;718:10,14; 722:8,23;728:9; 731:3,8;738:11; 740:1;762:21;763:2, 13;766:25;767:7,17; 769:7,7;776:7,10; 780:1;782:25; 783:19;785:16,17; 796:8 cases (2) 774:17;779:19 categories (1) 772:14 category (1) 712:3 ceiling (1) 732:19 celebrates (1) 720:16 Center (55) 664:21,23;665:2, 11,12,15,18,20,24; 668:18,25;669:6,15; 675:10,11;678:2,3; 682:18;683:25; 684:3,10,11,24,25; 687:23;688:1; 689:10;702:9; 705:11;707:9; 717:13;718:7; 728:24;729:2,19; 730:4;732:8;733:16, 20;736:24;744:2,24; 745:2,8,15;751:5,7; 752:7,11;768:11,11; 769:17;792:11,15; 793:22 centers (3) 662:22;715:7,17 Century (1) 699:8 CEO (1) 664:4 certain (2) 683:5;697:5 Certainly (3) 736:23;772:21; 778:3 certificate (4) 702:5,13;792:12, 18 certification (2)	certified (1) 770:24 chain (1) 668:12 challenge (1) 780:18 chamber (5) 682:10;711:16; 716:9;733:17;746:1 chambers (1) 745:16 Chan (6) 665:7,8;679:17; 752:8;756:24;760:10 change (9) 670:5;671:10,25; 672:8;680:2;681:10; 752:24;754:3;780:6 changed (1) 666:8 changing (1) 784:21 chapel (2) 685:2,3 characterization (2) 688:13;722:9 charge (3) 662:22;666:6; 668:3 charged (2) 753:9,11 check (2) 756:2;758:22 checked (1) 755:24 checking (13) 699:5;755:19; 756:6,8,11,14,17,22, 24;757:2,6;758:1,14 checkmarks (2) 678:6,9 checks (1) 704:22 Christin (3) 723:17,21;724:2 C-H-R-I-S-T-I-N (2) 724:2,5 Christmas (3) 751:10,14,15 claim (5) 776:17;785:5,10, 11;787:3 clarified (2) 743:21;775:1 clarify (7) 678:5;700:2; 704:21,21;743:22; 773:7;795:12 classifications (1) 789:19 clean (1) 719:23
best (1) 788:9 beyond (2) 737:6;784:19 bias (2) 763:10,13 big (3) 700:10;751:20; 792:6 biomed (2) 729:12;760:19 biomedical (11) 724:24,25;725:4,5, 7,14;727:15;730:11; 762:6;764:2,4 bit (2) 693:23;790:8 black (1) 686:4 Bless (1) 716:6 block (1) 685:19 blocks (1) 687:2 blue (3) 766:4;782:12; 793:7 Board (33) 661:6;669:16; 722:17;726:17,22; 770:16,22;771:9,15; 772:7,13;773:22; 774:2,8,8,9,11; 775:13;776:6,23; 777:10,20,25;778:10; 780:9,18;783:20,22, 25;791:13;796:4; 797:9,15 Board's (5) 771:12;775:10,19; 785:1;788:23 booklet (1) 687:12 Borough (1) 715:8 both (19) 661:9,11;676:6; 709:5;713:24;716:8, 9;737:8;767:1,20; 770:7;774:17; 780:19;781:17; 782:21;792:4,21,24; 793:22 bottom (5) 677:21;706:2,4; 711:24;720:18 box (2)	brief (5) 670:2;680:5; 710:14;719:8;746:11 briefly (1) 790:21 briefs (4) 767:5;779:17; 780:3,4 brochures (1) 677:10 broke (1) 760:4 broken (1) 729:15 Brooklyn (8) 687:23;688:1; 711:25;727:11; 769:18;773:4,9; 788:23 Buckley (2) 685:18,21 building (7) 685:11;686:6,13, 15,22;708:2;793:13 bulbs (1) 729:15 business (1) 707:20 C cables (1) 729:15 cafeteria (1) 685:1 calculator (2) 751:21,23 call (10) 686:13;704:8; 723:15;730:21; 731:1,6,7;761:19; 767:25,25 called (8) 661:20;681:21; 697:2;723:22;752:3; 753:2,5,17 calling (2) 748:1;754:4 calls (4) 730:15;731:2; 744:14;759:14 came (2) 741:2;767:8 campus (4) 688:20;697:2; 715:16;735:20 can (46) 661:4;667:9;668:4;	can't (16) 671:19;704:18; 705:12;736:20; 739:2;749:17;751:3; 757:17;772:21; 775:24;776:3;777:3, 10;785:10,11;789:3 Cardiac (1) 683:24 Care (137) 661:10;664:20; 665:11,15,18,20,24; 669:6,15;675:10; 678:2;682:4,7,13; 683:21;684:4,6; 686:16;690:2; 691:12,12,14;692:18, 19,22,22,23;693:3,4, 5,6;696:13,14,15; 697:9,12,13;698:19, 20;699:7;702:8; 705:9,10;707:10; 709:5,8;711:15; 713:24;716:9; 717:13;718:7; 719:18;720:1,13,15, 16;728:24;729:1,19; 730:4,7;733:16,20; 736:24;737:22; 738:25;743:1,12,15, 19;744:1;745:2,8,15; 751:4,7,15;752:7,11, 16;755:14;756:8; 759:22;760:21; 761:11;765:23; 769:17;770:16,17,18, 20;771:7,14,20,22; 772:8;774:5,15; 775:5,11,14,14,19, 19;776:9,12,17; 777:18,19,22;778:1; 781:25;782:8,15,19; 784:5;785:16;786:2, 5,17;787:11;788:10, 23;789:18;790:10; 791:6,10,18,20,21,21, 24,25;792:11,14,15, 21 Care/Urology (1)	careful (1) 740:25 Carrington (2) 685:15,20 carve (1) 789:2 case (35) 661:9,10;692:3,12, 15,18;708:13; 709:11;711:15; 713:10;718:10,14; 722:8,23;728:9; 731:3,8;738:11; 740:1;762:21;763:2, 13;766:25;767:7,17; 769:7,7;776:7,10; 780:1;782:25; 783:19;785:16,17; 796:8 cases (2) 774:17;779:19 categories (1) 772:14 category (1) 712:3 ceiling (1) 732:19 celebrates (1) 720:16 Center (55) 664:21,23;665:2, 11,12,15,18,20,24; 668:18,25;669:6,15; 675:10,11;678:2,3; 682:18;683:25; 684:3,10,11,24,25; 687:23;688:1; 689:10;702:9; 705:11;707:9; 717:13;718:7; 728:24;729:2,19; 730:4;732:8;733:16, 20;736:24;744:2,24; 745:2,8,15;751:5,7; 752:7,11;768:11,11; 769:17;792:11,15; 793:22 centers (3) 662:22;715:7,17 Century (1) 699:8 CEO (1) 664:4 certain (2) 683:5;697:5 Certainly (3) 736:23;772:21; 778:3 certificate (4) 702:5,13;792:12, 18 certification (2)	certified (1) 770:24 chain (1) 668:12 challenge (1) 780:18 chamber (5) 682:10;711:16; 716:9;733:17;746:1 chambers (1) 745:16 Chan (6) 665:7,8;679:17; 752:8;756:24;760:10 change (9) 670:5;671:10,25; 672:8;680:2;681:10; 752:24;754:3;780:6 changed (1) 666:8 changing (1) 784:21 chapel (2) 685:2,3 characterization (2) 688:13;722:9 charge (3) 662:22;666:6; 668:3 charged (2) 753:9,11 check (2) 756:2;758:22 checked (1) 755:24 checking (13) 699:5;755:19; 756:6,8,11,14,17,22, 24;757:2,6;758:1,14 checkmarks (2) 678:6,9 checks (1) 704:22 Christin (3) 723:17,21;724:2 C-H-R-I-S-T-I-N (2) 724:2,5 Christmas (3) 751:10,14,15 claim (5) 776:17;785:5,10, 11;787:3 clarified (2) 743:21;775:1 clarify (7) 678:5;700:2; 704:21,21;743:22; 773:7;795:12 classifications (1) 789:19 clean (1) 719:23

clear (7) 717:7;736:23; 743:3;744:22; 782:16;786:10; 792:14	796:22 completed (2) 712:5;731:23 complicated (4) 691:24;692:1,2,7 concern (3) 774:10;789:20; 796:11 concerning (14) 667:10,14;678:25; 717:9;769:9;770:2; 776:21;777:1; 778:13;783:19,21,23; 785:14;796:4 concerns (1) 779:17 condition (1) 691:17 conditions (3) 718:13;782:9,21 conduct (4) 734:10,12,16,20 conducted (1) 757:8 conducting (1) 734:24 connect (1) 727:8 connection (1) 717:14 consecutive (2) 779:24;798:9 consent (9) 773:3,8,12,14,24; 785:21,22,24;786:3 consider (1) 783:25 considered (3) 693:15;718:14; 779:6 considering (1) 718:6 considers (1) 726:17 consolidated (3) 712:11,12,18 Constitutional (2) 780:13;781:2 constrained (1) 780:21 consult (3) 701:16,16;731:4 consultation (1) 739:10 consults (1) 691:13 contact (6) 676:11;680:8; 694:10;782:4; 784:22,22 contacted (4) 745:8,16,19;746:3 containing (1)	725:23 contains (1) 713:9 context (1) 790:11 continue (5) 661:7;775:6; 779:23,24;781:18 CONTINUED (4) 671:8;727:13; 728:19;743:24 continuing (1) 661:5 contract (4) 680:13;768:14; 791:4;792:24 contractual (1) 791:13 contributed (1) 780:9 control (4) 791:3,8;794:12,17 conversations (1) 699:13 coordinator (4) 731:7;759:13,14; 762:10 copies (2) 719:23;767:13 copy (4) 670:17;686:6,7; 721:17 corporation (3) 684:18;712:4; 783:11 corporations (2) 712:17;721:6 cost (1) 712:10 couldn't (4) 682:8,10,12; 786:20 counsel (10) 678:12;708:20; 717:19,24;722:15,15, 15,19;740:21;780:14 County (25) 662:25;663:4,11; 680:9;688:2;711:23, 24;712:7,15;721:7; 722:5;757:5;769:8, 13,17;770:6;771:5; 781:25;782:2,6,8,19; 783:9;784:10,11 couple (5) 670:16;683:8; 746:24;749:17; 760:15 COURT (1) 766:17 cover (4) 705:23;761:16,23; 773:1	covered (5) 696:8,9,10;697:24; 768:13 covers (1) 792:25 crafting (1) 706:6 create (1) 796:2 created (9) 663:13,17,18; 666:12;667:4; 788:13;793:3,3; 794:16 creating (1) 790:8 credentialed (1) 689:4 credentialing (1) 689:7 criteria (1) 783:22 Critical (1) 684:4 CROSS (4) 683:17;687:4; 690:19;746:13 cute (1) 716:13 cutting (1) 788:6 cycle (5) 744:16,19,23,25; 749:7 cystoscopies (1) 691:23	786:1 deals (1) 729:6 December (3) 666:4;751:11; 752:18 decide (2) 700:11;705:2 decides (1) 691:17 decision (9) 699:20,21;700:15; 701:5;779:4,7,8,8; 796:21 decisions (5) 773:25;774:9; 782:17,20;783:6 deems (1) 797:9 defect (2) 759:23,24 defective (3) 772:23;777:8; 778:9 defibrillator (3) 748:24,25;751:19 deficient (1) 776:5 define (1) 715:9 defined (1) 777:13 definition (4) 772:15;774:11,13; 791:21 deliveries (2) 684:7,7 delivers (1) 784:24 delivery (1) 784:23 demonstrated (1) 763:13 demonstrates (3) 722:3;763:10; 783:13 denial (1) 780:14 denied (1) 787:2 dentist (1) 716:15 department (22) 662:21;664:10,11; 671:17;689:8; 690:10,11;694:6; 702:19;705:19; 721:6;725:3,5; 730:12;731:1;740:2, 11;741:16;744:11; 761:11,12;762:12 departments (3) 667:23,23,24
		D		
		daily (1) 665:12 dark (2) 686:6,7 database (1) 735:16 date (5) 671:17;674:1; 748:2;751:3;752:5 dated (1) 711:1 dates (2) 751:13;779:16 Day (11) 681:10,10,12,12; 682:3,20;753:21; 779:25,25;784:20,23 days (3) 779:24;782:11; 798:9 deal (4) 700:10;730:9; 754:22;786:2 dealing (1)		

depending (1) 744:21	727:13;741:13; 743:24;785:25; 786:4;787:10	793:11	753:12,13;757:17,21; 759:25;760:24; 761:25;762:23; 767:6;769:4;772:22; 778:8;781:14,14; 784:21;787:4,23; 789:11;793:5,11	eight (3) 677:18;712:13; 771:23
depends (1) 744:20	directed (1) 756:19	distinctions (2) 773:18;782:16	done (32) 691:18,18,19,19, 21;692:2;695:8; 710:4;717:24; 727:15;737:17; 738:2,2,14,20,24; 741:25;742:8,25; 743:8,14,23;751:4; 752:17,21;755:19; 756:6,8,11;780:13; 782:7;792:2	eighth (1) 663:25
describe (5) 683:19;691:3,4; 725:7;758:11	directing (1) 779:8	Division (2) 721:6;772:4	Donovan (8) 661:13,15,16,19; 667:8;671:10; 674:20;679:5	either (12) 699:7;700:15; 733:19;737:8,8; 738:25;743:19; 749:4;755:14; 756:21;771:25;779:8
described (2) 691:3;745:6	direction (2) 791:3,8	Doctor (5) 661:23;662:23; 664:6;693:16;698:23	door (1) 728:16	election (7) 776:2,4;779:8; 785:25;786:4; 787:10;797:9
describes (3) 714:6;715:4; 774:17	directly (1) 791:15	doctor's (2) 692:14;784:15	double (1) 756:2	electrical (1) 729:16
describing (1) 715:11	Director (19) 661:10;756:20; 762:3,3,6;767:3; 778:12,21;779:1,3, 15;782:19;785:19, 25;786:4;787:10; 789:8,17;796:21	doctors (15) 694:3,19,21;695:4; 698:24,24;703:6,11; 708:9,12;709:15; 713:24;714:14,15,19	down (13) 684:4,5;692:24; 693:1,2,4;723:3,3; 732:17;760:4;796:3, 5,6	Electrosurgical (4) 733:5,7,9;758:2
description (1) 678:2	Director's (2) 779:4,7	document (37) 670:4;671:7,12; 674:2,22;675:19,20; 676:9,12;677:4,7,12; 688:4,15;698:14,15; 706:3,8,12,19; 710:23;711:7,14,22; 712:13,21;713:7,8, 11;715:4,10;717:21, 23;721:5;722:4; 765:4,4	Dr (1) 694:9	eligible (1) 777:23
descriptions (1) 784:14	directory (1) 720:14	documents (10) 711:5;713:1;714:9; 718:18;721:14; 722:17;792:3; 794:25;796:10,17	draft (1) 717:7	else (11) 664:10;674:6; 740:8;749:2;752:1; 760:19,22;761:10,16; 763:20;785:9
despite (1) 785:4	disagree (1) 722:9	doesn't (15) 669:24;678:11; 687:25;688:17,19; 692:11;695:15; 728:10;741:6;743:4; 749:16;777:8; 784:25;795:15; 797:23	due (9) 715:23;716:17; 744:16;749:8; 753:21;779:21; 780:3,4,14	elsewhere (1) 741:25
determination (4) 726:22;776:4; 783:6;785:12	discipline (3) 699:7;700:15; 782:18	dollar (1) 712:9	dues (1) 764:12	email (5) 767:11,18,19,20,23
determinations (2) 788:24;797:16	disclaimed (1) 788:18	don't (92) 663:8;665:16; 667:24;670:17; 672:20,21,24;673:2, 3,4,4;676:19;677:11; 678:13;680:10,17,22; 683:11;692:15; 694:25;696:12; 697:19,20;698:10,21; 699:2,3,4;701:21; 703:18,20;704:11,16, 20;705:12;707:3; 708:4,5,5;709:16; 710:8;714:15,23; 715:5;717:8;718:9, 12;719:23,24;730:6; 733:11;736:7,16,16, 17;740:16;741:21; 745:20;746:3,5,22; 747:16,18,25;748:23; 749:23,24;751:13; 752:19,19,20,20;	duties (1) 725:7	emailed (1) 767:10
determinative (1) 783:18	discrepancies (1) 795:2		duly (2) 661:20;723:22	emergency (5) 684:22;704:3,23; 705:10;791:22
determine (5) 726:13;731:18; 771:15;776:23;778:2	discuss (1) 681:6		ear (1) 758:14	employed (10) 662:16;665:8; 666:2;762:8;768:10; 769:12,16;770:5; 772:17,18
determined (2) 693:3;773:23	discussed (1) 700:25		earlier (1) 701:8	Employee (9) 670:5;671:10; 672:8;699:7;701:8, 13;705:15;762:14; 782:7
determining (5) 726:18;771:21; 783:7,23,25	discussing (1) 679:21		ears (1) 713:4	employees (71) 664:11,12;669:18; 679:2,25;700:22; 718:19;725:22; 727:22;768:9;769:4, 12,16,24;770:3,5,10, 17,18;771:24,24,25; 772:3,4,8,13;773:2,3, 14;775:21,25;776:12, 17,18;777:7,17,19, 21,23,24;778:2; 781:25;782:1,5,7,11, 12;783:2,2,3;784:1,4, 21;785:3,3,8;786:1,5; 787:11,12;788:15,22, 25;791:5;792:20,23, 25;793:5,23;797:5,7
Diaz (2) 759:13;762:10	dismiss (5) 769:8;778:12; 779:1,5;790:22		effect (1) 701:9	employees' (1)
didn't (10) 682:3,7;722:14; 726:11;733:23,23; 741:21,23;745:24; 781:6	dismissals (1) 699:6		effected (1) 682:5	
difference (3) 666:22;696:22; 740:24	dismissed (3) 774:25;778:6; 785:17		Efficiency (1) 681:11	
different (19) 666:18;669:14; 670:16;690:17; 697:6;723:9;732:3; 735:19;774:7; 775:22;777:21; 782:9;784:1,2,7,14, 14;787:20,20	dismissing (1) 779:8			
differently (1) 784:15	dispatched (1) 731:16			
Dinnerstein (1) 671:19	dispatcher (2) 759:6,12			
Dinnerstein-Wood (1) 679:19	dispatches (2) 759:10,14			
DIRECT (12) 662:12;671:8; 685:9;687:11; 704:11;724:19;	disprove (1) 796:18			
	disregarded (1) 721:1			
	disrupt (1) 682:4			
	distinct (1) 740:23			
	distinction (3) 714:21;792:8;			

718:13 Employer (32) 667:14;679:2; 718:19;726:21,23; 727:22;763:2;768:4; 773:13,20;775:15,15; 776:24,24,24,25; 777:3;778:7,15; 783:5,8,16;785:15; 20,20;786:3;788:9; 794:15,19,20,24; 796:22 Employer's (3) 765:9,20;786:7 Employers (1) 772:24 employment (3) 718:13;782:18,21 encompassed (1) 792:11 end (1) 737:6 enforcement (2) 796:3,12 engineer (1) 729:24 Engineering (9) 725:4,5,16;729:25; 730:12;760:20; 762:6;764:2,4 enter (1) 796:16 entered (1) 768:14 entire (1) 766:25 entities (2) 740:25;772:24 entitled (2) 721:5;776:2 entity (7) 707:24;722:5; 775:20;777:20; 785:15;787:8;793:2 equipment (76) 692:14;726:10; 727:10,19;728:6,23; 729:1,4,5,11,14,15, 17,18;730:16; 731:10;732:7,8,14, 23;733:1,4,5,7,9,19, 22;734:3,4;735:2,3,6, 10,13,15,19,23; 736:1,4,6,7,10,18; 737:5,6,7,8,19;738:7; 739:10;743:15; 744:15,20,21,21; 745:1,9;748:2,3,6,7, 8,11,17,22;750:12; 752:4;753:20,21; 754:19,25;756:3; 758:2,8;760:20; 761:11	ER (1) 684:6 Erin (1) 661:6 erinschaefer2@nlrbgov (1) 767:12 Errol (3) 667:16,18;668:13 essence (1) 774:1 essentially (2) 694:20;717:1 establish (3) 668:12;784:25; 794:6 established (12) 712:16;714:16; 771:9,12,23;772:7; 777:18;778:10; 783:22;784:3;797:1, 6 establishes (1) 793:1 establishing (1) 668:8 even (9) 746:3;754:3; 771:11,11,15;773:4; 776:1;791:5;792:14 event (2) 772:21;783:17 everybody (2) 785:9;798:10 everyone (2) 724:14;798:8 evidence (30) 676:25;678:23; 708:2;712:23,23,24; 713:12;715:24; 716:16,19;718:6,8, 22;721:2,3,13;728:9; 742:25;743:8;765:5, 18,20;768:14;771:2; 783:5;784:11,19,20; 794:5;797:23 evident (1) 792:4 exactly (1) 749:18 EXAMINATION (21) 662:12;671:8; 683:17;702:2; 724:19;727:13; 729:3,8,9;732:16,20, 21;743:24;744:1; 746:13;749:20; 750:9;757:19;758:5; 760:17;763:23 examine (1) 758:7 example (1) 690:1 except (2)	704:11;720:24 exception (1) 798:9 exceptions (2) 748:16;782:4 Excluded (4) 769:23;785:7,9,12 excludes (2) 770:23;776:5 exclusion (1) 785:10 excuse (7) 665:20;684:19; 686:12;687:15; 711:23;716:5;732:11 exhibit (6) 685:6;706:13; 719:17;722:3;791:2, 9 exhibits (1) 768:15 exist (1) 777:8 existence (1) 666:23 existing (6) 769:19;770:2; 772:9;776:13,14; 777:4 expenses (1) 712:9 experience (1) 798:10 explain (1) 696:21 extend (1) 702:7 extended (1) 698:5 extension (7) 696:25;697:2,3,9; 698:6,16;711:17 extent (11) 766:25;767:7; 772:24;775:13; 787:1;791:19; 792:10;794:18,24; 795:1;796:5	facility (15) 683:22;711:19; 732:11;733:20; 734:5;735:6;744:24; 745:1;760:20,21; 785:16;788:10; 797:16,22,24 fact (29) 705:24;706:18; 707:1;711:17,22; 712:6,14;713:22; 715:6;748:3,16; 749:19;755:8;774:6; 781:23;784:13,22; 785:6;787:8;791:5, 12,17;792:1,13,15, 22;794:12;795:18; 797:7 factors (4) 726:17,22;783:24, 24 facts (4) 767:6;794:20; 797:1,10 faculty (2) 677:22;720:14 failed (1) 778:13 fails (1) 769:9 fair (2) 690:20;706:20 fall (2) 675:12,14 familiar (4) 664:21;677:7,11; 696:5 far (2) 686:21;687:1 fate (1) 778:3 fault (1) 761:7 federal (1) 702:16 feel (1) 694:15 Felstiner (77) 662:9;670:18; 723:17;724:15,16,17, 18,20;725:13,15,25; 726:2,5,9,17,21; 727:1,3,10,14;728:3, 4,5,21,22;729:10; 730:3,11,14,20,24; 731:5,21;732:7,10, 22;733:15,23;734:9, 13,16,19;735:1,8; 736:13,15,23;737:10, 14,16,19,22;738:1, 13,17;739:8,25; 740:5,7,10,15; 743:25;745:11,13,14,	19;746:5;760:15,18, 23;761:1,4,6,8;762:2; 763:20;766:10 few (2) 683:11;717:2 fifth (2) 687:12,13 figure (3) 725:20;739:6; 766:20 file (1) 778:20 filed (3) 710:20;711:2; 722:23 filing (1) 710:22 filings (1) 793:17 fill (12) 674:3;731:22,23; 738:5,8;742:14,15; 744:7,9;752:21,25; 753:2 filled (3) 672:20;674:6; 743:10 financial (3) 710:22;712:12,18 find (4) 720:14;731:10; 775:13;785:19 finding (7) 775:16;783:15; 785:2;788:9;789:17; 794:21,21 findings (1) 779:2 fine (5) 673:8;719:25; 765:25;767:19;781:1 finish (1) 726:6 fire (1) 753:25 firing (1) 782:18 first (15) 661:13,20;662:8; 683:9;688:7;705:22, 23;723:9,22,25; 724:3,4;741:5; 759:11;793:24 five (5) 677:12;747:22; 778:1;783:2;787:12 fix (3) 747:23;750:14,25 fixed (3) 736:20,24;749:22 fixing (1) 750:6 flesh (1)
		F		
		face (9) 769:10,25;772:23; 774:8;775:18; 776:19;777:9;778:6, 9 facilities (16) 663:2;711:18; 715:8;726:11,14; 730:15;735:24; 737:20,23;744:17; 745:5;782:23,24; 791:3,7,14		

726:12 flip (1) 678:6 flood (4) 681:15;682:5,14, 23 floor (3) 663:25;693:5; 728:18 focus (1) 728:23 focused (1) 778:16 focusing (1) 777:1 follow (9) 688:11;701:22; 704:14;705:1,2; 708:21,22;780:21; 785:18 followed (1) 665:13 following (2) 705:23;795:25 follows (2) 661:21;723:23 foot (1) 786:11 forget (1) 710:8 forgot (2) 797:13,19 form (35) 663:7;668:22; 670:5;671:11,24; 672:7,8,9;673:11,19; 674:3,7,10;675:15; 680:22;695:13; 699:1,4;722:17; 730:18;731:25; 733:21;735:12,15; 738:25;740:1,7; 741:4,10,14;742:16; 745:17;752:21; 783:4,12 formed (2) 684:16;712:15 forms (6) 721:23;731:22,24; 741:1;743:14;783:14 forth (3) 705:24;717:14; 790:16 forthwith (1) 722:17 fortunately (1) 711:6 forward (3) 688:4;711:21; 794:1 found (4) 682:2;775:20; 777:20;794:15	foundation (4) 727:4;733:21; 734:1,2 four (5) 726:22;728:6; 747:22;783:24; 791:10 Fourth (4) 687:15,15,18,21 fragmentation (1) 787:4 FRANK (277) 663:7;666:22; 667:4,9,12;668:7,9, 20,22,24;670:17,20, 22;672:22,24;673:4; 675:15;676:22; 678:21,24;680:14,22; 683:8,11,13,18; 685:6,8;686:1,9,10, 14,18;687:11,14,18, 22;688:17,19,22,25; 693:18;695:13,15; 696:7,12,16,18; 699:1,8,11;703:8,14; 706:19,22;707:25; 708:13,17,19;709:9, 11,13,15,19,21,23,25; 710:11;711:9; 712:20,21,25;713:5, 6;714:13;715:19,21; 716:6,12,13,20,22; 717:7,18,21;718:4,9, 12,25;719:24;720:11, 18,20,22,24;721:10, 24;722:1,3,7,11,20, 22,25;723:9,12,14; 724:7;725:9,12,14, 16;726:3,20,25; 727:18,23;728:9,13, 15;730:6,18;733:21; 734:1,3,25;736:11; 737:2;740:3,9,12,17, 19,21;742:3,25; 743:6,8,12,18; 745:10,12,17,22,24; 746:1,8,14;747:3; 749:11,13,25;750:3, 5,20,23,24;753:8; 754:7,16;755:3,7,14, 18,22,24;756:5; 757:11,15,22,24; 758:1,4,21,24;759:9, 15;760:2,9,12; 762:20,25;763:2,6,8, 10,14,16,22,24; 764:7,12,16;765:21, 25;766:2,4;767:21; 768:18,20;769:4,5,6; 771:2,5,20;773:6,9, 11,16,19,22;774:5, 17,21,23,25;775:3,7, 10;779:10,13,15,25;	780:7,10,12,17,21, 24;781:4,6,9,13,19, 21,23;785:22;786:9, 14,16,19,22,24; 787:1,3,12,15,20,23; 788:1,3,7,13,18,22; 789:3,8,15,24;790:1, 4,6,9,14;795:3,5,13, 19,21,23;797:12,15, 19,22;798:12,16 frayed (1) 729:15 free (3) 694:15;704:19; 764:8 frequent (1) 784:22 frequently (1) 694:20 Friday (4) 778:22;779:22; 782:10;798:9 full (4) 769:11,14,15; 776:10 fully (1) 780:17 functional (1) 744:18 functionality (2) 744:15;752:2 functioning (2) 729:16;792:17 functions (1) 784:21 fundamental (1) 770:15 further (9) 683:7;693:18; 709:18,20,23;746:5; 760:12;764:7;797:3	G-I-L (2) 724:2,6 GILL (1) 723:21 given (5) 673:21;715:23; 776:7;785:9,21 gives (1) 792:12 giving (1) 701:20 glad (2) 697:16;779:18 goes (5) 679:1,23;730:4; 735:16;738:6 Good (3) 662:14,15;685:15 government (1) 783:15 Grand (1) 707:7 grant (1) 779:5 gray (1) 685:18 great (2) 661:22;713:18 grounds (9) 678:21;711:9; 715:21;718:4;725:9; 726:3;727:18;769:9; 778:13 group (2) 692:9;778:2 Grunberg (1) 694:9 guess (6) 663:8;673:4;695:2; 714:13;791:16; 796:25 guide (4) 677:5;705:22; 716:1;717:10 guides (1) 716:25 Gynecological (1) 684:1	672:4;674:2 handwritten (5) 717:18,21,22; 720:24;721:1 Hang (6) 714:4;719:13; 738:19;795:4,4,9 Hankin (3) 667:18;668:1,6 Hankin's (1) 668:13 happened (3) 672:9;673:20; 743:4 happening (2) 731:13;739:6 happens (4) 730:23;731:15; 741:1;753:13 hasn't (1) 743:23 haven't (2) 695:8;796:11 he's (11) 664:7,8;683:15; 716:15;737:15; 742:25;743:8,10; 757:25;762:6,8 head (6) 667:24;671:17; 700:2;747:25; 749:16;752:23 Health (6) 690:10,11;702:20; 705:15;715:7;775:10 healthcare (5) 770:16;777:12; 778:11;783:11; 797:17 hear (3) 724:14;733:23; 790:15 heard (3) 773:1;775:3;789:7 HEARING (526) 661:3,6,15,22,25; 662:3,6,8,11;663:9; 666:24;667:2,6,11, 13,17;668:2,8,10,15; 669:2,4,22;670:1,3,6, 9,11,13,15,19,21,23, 25;671:2,4,6;672:12, 16,23,25;673:2,5,7; 674:18;675:17,20,22, 25;676:4,6,8,11,21, 23;678:5,10,12,16, 18,20,22;679:1; 680:4,6,16,18;683:8, 12,14;685:25;686:3, 8,17;687:4,8,10,17, 19,21;688:16,18; 693:19,22;694:2,5,8, 12,24;695:1,4,8,14,
		G		
		gaps (1) 795:2 gave (1) 717:6 General (1) 710:21 generally (1) 692:8 Geriatric (1) 684:14 gets (3) 704:7;705:2;738:7 GI (1) 690:4 gift (3) 684:24,25,25 Gil (5) 723:17;724:2,6,21; 760:19		
		H		
		half (2) 682:25;751:17 hand (4) 661:17;706:5; 718:22;723:19 handed (1) 755:10 handle (1) 692:7 hands (2) 719:5;743:5 handwriting (2)		

17,19,21,25;696:3; 15,17,19,21,24; 697:4,8,11,13,16,20, 22,24;698:2,4,9,12, 14,17,19,22;699:3,9, 12,16,18,21,23; 700:1,5,7,10,14,18, 22,24;701:4,7,8,12, 15,18,21,25;702:15, 18;703:9,15,18,20; 704:19,25;705:4,7; 706:3,5,8,10,20,23; 707:1,3;708:1,5,16, 18,22;709:12,14,16, 19,22,24;710:2,4,6,8, 12,15,25;711:3,8,10, 13;712:19,22;713:1, 3,11,18;714:1,4,8,12, 18,25;715:2,12,14, 18,19,22;716:5,10, 12,15,24;717:3,5,11, 17,20,23;718:1,3,5, 10,11,16,21;719:2,5, 9,11,13,15,20;720:2, 4,6,8,13,21,23,25; 721:9,11,16,18,21,23, 25;722:2,6,12,13,21, 24;723:2,4,7,11,13, 15,18,24;724:3,6,8, 13,17;725:11,18; 726:1,8,12,16,19,24; 727:2,5,7,21,24; 728:4,11,14,15,16; 729:4,24;730:2,8,19, 22;731:18;732:3,6, 18,21;733:9,11,14, 25;734:2,4,7,12,15; 735:4;736:12,21; 737:1,3,12,15,17,21, 25;738:8,12,16,19, 24;739:3,18,21,24; 740:4,6,13,16,18,20, 22;741:7,10,12,17, 20,24;742:2,4,7,11, 15,18,21,24;743:2,7, 10,13,17,20;745:21, 23,25;746:2,6,9,12; 747:1;749:5,9,24; 750:1,19,22;752:24; 753:2,5,7,25;754:3,6, 13;755:2,4,12,16,21, 23,25;757:10,12,14, 21,23,25;758:11,15, 17,19;759:8,11,25; 760:3,6,8,13,16,22; 761:3,5,7,9,14,17,21, 24;762:19,21;763:3, 4,7,9,12,15,17,21; 764:8,11,15,17; 765:3,11,13,15,17, 22;766:1,3,5,7,9,12, 14,16,19;767:11,19, 23;768:7,16,19,21,	25;769:3,5;771:1,4, 19;773:5,7,10,12,17, 21;774:4,10,20,22, 24;775:1,6,9;778:22, 25;779:10,12,14,16, 22;780:2,8,11,12,16, 20,23;781:1,5,8,10, 20,22;785:18,23; 786:12,15,18,20,23, 25;787:2,6,13,18,21, 25;788:2,4,8,16,20; 789:1,6,14,16,23,25; 790:3,5,7,13,15,20; 792:4;795:4,9,11,17, 20,22,24;797:11,14, 18,21;798:1,4,6,13, 15,17,19,20 help (1) 694:17 helpful (1) 725:19 Henriquez (3) 765:10,12,13 here's (1) 787:6 herein (2) 661:21;723:23 Hernandez's (1) 765:8 hey (1) 700:1 Hi (3) 662:5,7;723:18 higher (1) 693:6 highest (1) 692:23 hire (1) 700:12 hired (1) 701:9 hiring (7) 665:14,17;669:17, 18;700:11,15;782:18 history (6) 777:15,18;785:4,4; 787:7,9 Hold (1) 795:20 homecare (1) 688:1 hoping (1) 779:10 Hospital (177) 662:17,21;663:3,5, 13,22;664:5,18; 665:21;666:3; 674:25;675:16; 677:10;679:13; 680:9,11;683:19; 684:12,16,22;685:11, 17,20;686:22;687:23, 24;688:1,8,9,12,20,	23;689:1,5,14;691:1, 3,6;692:3,5,7,24; 693:9;695:10;696:9, 11;697:1;702:5,7,11, 23;703:13,25;704:2; 705:10,13;706:17; 707:23;710:20; 711:19;712:2; 713:14,16,21;715:3, 6,9,11;716:1,3,7; 717:10,13,15,20;718: 724:21;725:6,22; 726:15;730:12,15; 732:4;735:7,16,21; 736:10;738:5;739:5; 741:19,25;742:6; 748:11;762:8,14; 764:1,5;768:14; 769:20;770:4,11,14, 19,20,21,23;771:3,6, 8,9,10,14,17,20,22; 772:8,17,18;773:4, 23,24;775:14,14,19; 776:1,14,15;777:5, 12,18,19;778:4; 782:1,3,7,7,10,11,15; 783:10;784:6,8,9,13, 16,18;785:2;790:10; 791:2,6,6,14,15,17, 18,18,21,23,24; 792:1,4,16,22,25; 793:2,4,7,12,14,25; 794:4,8,9,10,14,25; 797:2,8 Hospital/MSO (2) 769:13,17 hospital's (6) 665:25;697:1,3; 771:16;792:12,14 hospitals (8) 690:15,18;695:22; 696:1;698:25; 770:16,18;772:5 hours (3) 784:1,1,2 House (1) 705:13 HR (1) 793:13 Huh (2) 755:11;764:3 human (4) 705:18;782:23; 793:13;794:10 hydraulic (1) 729:23 hydraulics (2) 729:22;759:16 Hyperbaric (16) 664:20;675:11; 678:2;682:7,10,12; 702:8;705:11; 711:16;716:8;	717:13;720:1,15; 733:16;745:16,24 hypothetical (2) 787:18,19 I I'd (12) 669:20;674:17; 676:20;677:2; 678:19;713:13; 714:14;715:25; 719:1;720:17;768:8; 789:7 I'll (6) 731:3;735:4; 736:23;745:11; 766:19;781:15 I'm (93) 661:13;662:19,22; 667:13;668:2,11,16, 20;671:10;672:15; 677:11;679:2,16; 686:11;688:13; 691:25;692:1,8,18; 693:11,19;694:13,14, 15,16;696:4,5,5; 697:16;698:22; 699:5,12;700:4; 701:12;703:9; 704:20;708:22; 711:1,23;714:12; 715:22;716:14,16; 717:24;718:16; 719:16;720:7; 722:20;723:25; 724:3,9,16,17,24; 726:5;727:3,3,18; 728:12,18;729:25; 730:11;736:16; 744:22;746:16; 752:15,18,22;759:7; 761:15,20,23;763:14, 16;765:7,11,17,18; 774:19;777:1; 779:17;780:3,5,13; 781:12;786:12,15; 787:6;790:17; 792:14;795:25; 796:8,13 I've (4) 742:5;743:2; 749:16;763:13 ICU (4) 692:15,17,17; 693:3 ICU/CCU (1) 684:4 ID (1) 765:8 identification (3) 712:3;782:12,13 identified (10)	675:2;677:6; 710:24;713:17; 716:4;717:16; 720:10,19;721:8; 765:9 identify (2) 685:11;735:14 identifying (1) 735:15 IDs (2) 793:7;794:2 imagine (1) 763:9 implementing (1) 782:22 imply (1) 795:13 important (3) 704:21;714:14; 781:23 importantly (2) 777:10;785:3 improper (2) 762:20,24 inappropriate (5) 769:25;772:20; 775:18;786:9;797:20 include (13) 679:25;697:9; 707:8;708:11;709:5, 7;715:17;736:1; 773:14;777:14; 791:7,14,21 included (8) 712:18;769:14,21; 775:24;776:6; 787:16;792:23;797:7 includes (3) 706:18;716:8; 784:1 including (1) 707:9 inclusion (1) 792:24 inconsistent (1) 778:9 incorporated (2) 707:24,24 incorrect (2) 722:8;723:3 index (1) 716:25 indicate (1) 793:17 indicated (1) 726:6 indicating (1) 753:20 indication (1) 796:6 indicia (1) 782:18 individual (2)
--	---	--	--	--

743:3;770:22 individuals (4) 725:21;768:23,23; 785:5 industry (2) 777:12;778:11 Infill (3) 686:12,13,15 information (8) 696:6;712:4;713:9; 721:7;731:12;795:2; 796:1,7 inherently (1) 777:8 initial (2) 722:20;781:7 inpatient (2) 792:5,9 inquires (3) 725:19,20;731:12 inspect (1) 744:15 inspection (4) 745:6;748:1,3; 758:22 install (1) 744:12 institutions (4) 775:11;777:11; 782:5;783:13 instructed (1) 779:24 insulate (1) 795:18 insure (2) 736:10,16 insures (1) 665:13 Intensive (3) 692:18,22;693:4 intentionally (1) 722:25 interact (1) 694:21 interaction (1) 793:15 interchange (5) 781:24;782:1,5; 784:17,21 interchanging (1) 784:20 interest (7) 725:21;783:25; 784:25;785:2; 788:25;789:22; 796:22 interoffice (1) 673:23 interpreted (1) 796:17 Interventional (2) 684:2,8 into (25)	701:9;712:23; 716:16;735:16; 749:16;765:5,18,22; 767:16;768:14; 771:25;772:2,4; 773:3,19;777:22; 783:12;786:16; 792:3,23,24;796:10, 11,15,20 intranet (1) 794:1 introductions (1) 793:24 invasive (2) 683:25;684:1 inventory (19) 734:10,16,20,24; 735:6,20;755:19,21, 24;756:3,6,8,11,14, 22,24;757:2,6,8 Inventorying (1) 735:9 involve (6) 679:21;681:13; 708:14;728:10; 729:14;734:24 involved (5) 689:19;699:6; 736:18;780:1;782:25 involves (1) 735:5 involving (1) 786:11 isn't (6) 695:5;727:19; 748:6,6;749:19; 795:17 issue (17) 681:5;694:13; 704:22;708:19; 715:5,6;718:18; 722:17;763:12; 767:15;779:25; 780:14;783:18; 789:12,22;791:13; 795:6 issued (2) 702:5,19 issues (22) 678:24;681:13; 690:8,9,11;693:24; 711:15;718:10; 725:24;776:25; 778:7,8,15,17;780:8; 781:2;790:23;796:3, 3,4,5,23 it'll (1) 715:23 it's (100) 663:17;667:7,11, 14;668:24,25; 669:22;670:21; 671:6;681:5;683:10;	685:17;686:3,7,20, 23,25;687:5;693:15; 694:19;697:2;698:9; 12,13,15;699:18,19; 700:8,8;702:19; 704:21;706:20; 707:20,20,22,23,24; 708:1,2,23;711:1,16, 17,21;712:2,12; 713:7,14;715:6,23; 716:14,17;718:5,6; 726:18;727:21; 731:3;733:9;737:6; 740:15,24;741:11,18, 20,25;742:8;745:10; 746:22;748:11; 750:19,22;752:22; 753:5,21,25;754:4; 755:6;758:13;765:7, 24,24;771:6;774:14; 780:17;783:20; 786:2,9,10;787:19; 788:2,8,10;789:10, 18;791:13;792:17; 793:7,21;794:24; 796:13 J January (1) 749:6 Jennifer (3) 661:14,15,19 Joanne (14) 672:11,12,14,15, 18;673:21,21;674:13, 14,15;681:14;695:2; 757:2;782:22 job (9) 725:7;784:7,7,8,9, 9,14,14,21 jobs (1) 794:4 join (2) 773:25;786:3 joint (10) 775:15;776:24; 783:5,15;784:19; 785:20;786:3;788:9; 794:20;796:22 jurisdiction (1) 689:8 K Karen (6) 665:7,8;679:16; 752:8,8;756:24 keep (1) 718:25 Kennedy (16) 672:12,14,15; 673:21,21;674:15;	681:14;695:2; 700:25;701:7,16; 728:17;757:2; 782:22,25;784:5 kind (11) 670:14;690:8; 691:21;692:6; 731:14;732:7,14,16; 733:4;751:17;754:2 Kings (25) 662:25;663:4,11; 680:9;688:2;711:23, 24;712:7,15;721:7; 722:5;757:5;769:8, 13,17;770:6;771:5; 781:25;782:2,6,8,19; 783:8;784:10,11 Kirkwood (1) 685:23 knowingly (1) 722:8 knowledge (6) 663:14;698:23; 741:13,13;745:18; 749:3 knows (3) 722:4;730:10; 778:21 KRUEGER (2) 723:2,6 L Labor (3) 772:6;783:7; 794:13 large (3) 683:21;684:2,6 Last (8) 734:23;746:21; 747:10,12;753:20; 757:9,17;762:20 lastly (1) 797:8 law (5) 767:7;771:10; 772:7,13;792:13 lay (2) 694:14;727:8 laying (1) 727:4 League (6) 768:13;773:22,25; 791:1;792:24;797:7 least (2) 708:14;718:7 leave (1) 710:6 Lee (1) 773:24 left (1) 743:5 legal (2)	722:16,18 less (2) 751:23;772:15 let's (14) 670:8;691:4; 710:12;720:2; 723:13,15;727:8; 728:23;729:5;746:9; 759:8;764:18;786:1; 798:19 level (9) 683:22;684:11; 692:19,22,23;693:3, 5,6;698:23 license (11) 665:22,25;697:1, 18,19,22;702:4,7,11, 12,15 licensed (2) 711:18;769:22 licenses (1) 784:13 life (1) 737:6 light (2) 758:12,13 lights (19) 729:8;732:16,18, 19,20,21;749:20,22, 23;750:2,6,9,10,25; 757:19,20,25;758:5,6 likely (1) 749:10 limit (10) 668:3,16;696:19; 708:22;728:18; 729:5;736:21; 737:12;763:18;796:9 limitation (1) 796:1 limited (3) 718:7;777:13; 795:21 line (5) 727:25;728:1; 796:3,5,6 lingo (1) 783:20 list (3) 676:19;691:23; 784:8 listed (11) 671:14;673:15; 675:3,11,12;714:9; 716:3,9;785:8; 788:17;793:14 listing (3) 716:8;721:6; 772:24 listings (1) 688:11 lists (1) 715:15
---	---	---	---	--

little (8) 686:23;693:23; 696:4;697:7;746:8; 751:17;758:13; 793:15	673:23;784:24	704:20;792:6	memorandum (1) 767:14	787:24
Liz (2) 759:13;762:10	mailman (1) 784:24	marking (1) 717:21	memorandums (3) 767:4,5,10	moment (7) 669:20,25;680:3; 719:6;747:18;751:6; 762:4
LLC (10) 662:25;663:4; 680:9;711:23,24; 712:7,15;722:5; 769:13,17	main (4) 688:20;694:9; 725:6;735:20	marks (2) 678:15,16	memos (1) 780:4	Monday (6) 767:12,24;778:20; 780:5;782:9;797:5
located (6) 663:24;669:6; 688:20;725:5; 732:11;771:6	maintain (1) 689:2	material (1) 717:18	mention (1) 797:13	monitor (1) 732:15
location (26) 665:4;668:19; 682:3;698:7,8;707:8; 717:14;720:8,11,12, 14;731:17;733:19; 734:15;739:7; 759:21;770:21,21,23; 771:3,9;777:13,14; 783:2,3;786:1	maintains (1) 715:7	matter (8) 767:5;768:13; 776:23;778:8,22; 779:3,23;798:21	mentioned (4) 705:17;738:20; 739:9;745:5	monitors (10) 738:3,3,9,20,22; 739:9;741:2,14; 754:9;755:9
lockers (1) 784:21	maintenance (8) 744:16,19,23,25; 745:6;749:7;753:22; 756:1	matters (3) 661:9;767:8;783:7	merge (1) 786:16	month (2) 682:25;757:17
locations (10) 689:17;734:17; 755:12;761:18,20,22; 770:24;772:10; 777:25;791:19	makes (5) 701:4;729:16; 782:17,20;791:23	may (13) 661:9;690:3,3; 695:9;704:25;705:4; 721:24;741:7;777:3; 790:16;796:3,5; 797:12	Methodist (83) 662:17;663:3,5,13, 22;664:4,17;666:2; 674:25;680:9,11; 683:19,21;687:24; 695:10,23;702:11; 703:24;704:2; 705:13,18;710:20; 712:2,14;713:14,16; 714:20;715:16; 716:1,7;717:12; 719:14,18;720:16; 722:15;724:21; 725:1;738:5;740:2, 10;762:8,14;763:25; 764:5;769:12,16,20; 770:4,20,22;771:16; 773:8,13;776:1,11; 777:5;781:17;782:1, 3;783:10;784:12; 788:9;791:6,17,18; 792:1;793:2,3,6,8,10, 12,14,25;794:4,8,14, 17,19,22,25;797:2,8	Monthly (2) 679:12;693:25
long (10) 666:2,5;682:24; 724:25;744:19; 746:23;771:12; 784:8;785:4;797:15	making (2) 683:5;699:20	Maybe (5) 666:7;673:13; 704:10;746:7;749:15	Methodist's (1) 712:18	months (3) 744:21;746:23,24
longer (1) 693:3	management (5) 663:17;679:21; 712:15;793:19; 794:12	mean (27) 677:9,10;681:9; 688:22;703:15,18; 706:2,20;707:22; 711:21;714:2;715:3; 716:17,20,22;717:7; 744:9;745:21;760:3, 22;762:23;768:25; 774:24;786:11; 792:2;796:21,25	microphone (2) 724:10,10	more (13) 692:7,13;695:5,11; 696:6;701:22; 716:17;717:1;730:9; 739:3;751:23; 777:10;778:19
look (7) 670:11;673:10; 688:4;693:13; 706:12;722:3;790:1	manager (17) 665:4,6;671:20; 673:25;674:10,12; 739:17;741:15; 744:10;747:2,2; 752:7;754:18,23; 775:4;782:17,20	meaning (1) 794:3	middle (1) 726:5	morning (2) 662:14,15
looked (1) 762:20	managers (13) 664:15,16;679:9, 14,16;681:8,21; 693:24;737:5;738:9; 756:21;782:21;784:4	meant (1) 719:3	Might (8) 662:8;701:22; 725:19;748:22; 777:25;788:24; 789:12;790:8	Most (7) 690:2;691:11; 749:10;770:14; 781:23;785:3;790:23
looking (8) 670:7;688:7; 693:12;706:2;767:6; 770:9;783:1;792:2	Managing (1) 681:11	Medical (20) 676:15;689:8; 693:7,9,16;706:18; 707:18;713:22; 714:11;729:1,4,9,20; 735:6,11,13;748:2; 759:17;762:6;769:22	Miner (2) 685:22;686:4	Mostly (2) 690:9;691:13
looks (1) 783:22	Manhattan (1) 779:20	medication (1) 729:20	Minimal (1) 683:25	motion (12) 768:4;769:6; 770:15;776:9; 778:16,18,24,25; 779:5;781:16; 783:17;790:22
lot (5) 685:4,5;713:9; 714:19;716:22	manufacturer (2) 736:8;744:5	medicine (1) 690:21	might (8) 662:8;701:22; 725:19;748:22; 777:25;788:24; 789:12;790:8	motions (2) 768:8;779:11
LPNs (6) 775:21;784:11,12, 13,15,17	manufacturer's (1) 759:23	med-surg (1) 693:5	mile (1) 686:23	mouth (1) 790:10
luncheon (1) 764:19	manufacturing (1) 759:23	meet (8) 679:8,11,13; 693:22,23,24,25; 694:2	Miner (2) 685:22;686:4	move (6) 668:4;682:10; 743:18;765:18; 781:11;795:3
M	map (3) 685:12;686:19,24	meeting (1) 694:4	minor (1) 782:4	moved (4) 682:9,19;683:5; 765:5
mail (2)	March (1) 673:17	meetings (1) 679:21	mischaracterizing (1) 694:16	moves (1) 769:8
	Mark (9) 664:2,3,4;668:6,14, 15;710:17;762:4; 765:7	member (2) 712:15;793:4	Mister (1) 728:2	moving (2) 711:21,21
	marked (8) 674:17;677:2; 678:17;713:13; 715:25;721:4;765:6, 23	members (2) 794:8,8	mix (1)	MSO (88) 662:22,24,24; 663:3,11;665:9; 666:6,12,15,17,25; 667:15;674:10,12; 680:9,20,21,25; 688:2;689:20; 690:24;694:13,17,21;

695:5,6,9,15;696:10; 18;705:4;711:22,24; 712:7,15,15,17; 714:15,24;721:7; 722:5,15;741:2; 748:12;757:5;769:8; 770:6;771:5;773:4,9, 14,19;776:11;781:17, 25;782:2,6,8,12,14, 17,19,23,24;783:8; 784:10,11,18;785:3, 19;787:8,9;788:22; 791:16;793:3,4,4,10, 11,15,16;794:7,9,15, 17,19,23,24	necessarily (3) 748:5;781:15; 795:18 necessary (3) 661:12;683:5; 796:2 need (24) 668:11,11;692:18; 693:3;695:5,6,11; 697:5,19,22;703:20; 721:17;737:12; 739:6;746:8;767:6,6, 8,10,25;778:6;779:2; 781:12,14 needed (4) 692:4,4;738:3; 798:5 needs (6) 691:17,18;707:4; 731:16,19;737:5 Neurology (1) 690:4 Neurosurgery (1) 684:9 New (82) 662:17;663:3,4,13, 22;664:4,17;665:22; 666:2;674:24; 676:15;680:8,11; 683:19,21;684:18; 695:10,23;702:11,19; 703:24;704:2; 705:13,18;710:19,20; 711:25;712:2; 713:14,15;714:19; 715:16;716:1,7; 717:12;719:14,17; 720:16;721:5; 722:15;724:21,25; 727:11;740:2,10; 763:25;764:5; 769:12,16,18;770:4; 773:8,13;776:1,11; 781:17;782:2; 783:10,10;784:12; 788:9;791:5,17,17; 792:1;793:2,3,6,8,9, 12,14,25;794:4,8,14, 17,19,21,25;797:2,8	788:22,25 non-professionals (3) 776:3;777:4; 788:11 non-proliferation (1) 778:10 nor (5) 770:12;772:9,17; 773:3;782:7 normally (1) 718:14 notations (1) 719:23 note (8) 672:6;715:13; 716:25;720:17; 780:6;781:16; 782:24;790:25 Noted (1) 661:2 notes (2) 712:11;721:1 not-for-profit (3) 684:18,20,21 notice (4) 661:11,11;766:24; 780:24 notifies (1) 701:1 notify (3) 680:2;699:14; 701:2 Noting (1) 720:25 notwithstanding (3) 771:15;775:20; 776:17 number (6) 704:8;711:20; 735:18;749:16; 766:17;769:7 numbered (1) 688:5 numerous (1) 792:3 nurse (5) 693:6;739:17; 769:22;772:12; 776:19 nurses (9) 770:8,9,12;772:11, 18,19;776:5;788:14, 19 NYM (6) 676:15;693:7,9; 707:18,18;711:17	773:25 OB (1) 684:7 object (8) 668:22;688:13; 699:11;701:20; 715:21;726:3; 727:18;742:3 Objection (51) 663:7;666:22; 668:7,10,11;672:22; 675:15;676:21,22; 678:20,21;679:3; 680:14,22;695:13; 696:12;699:1;703:8; 706:19;707:25; 708:13;709:9;711:8, 9;712:21;717:17; 718:3,4;720:20,22, 24;721:9,10;725:9; 727:25;728:1,9; 730:6,18;733:21,24; 734:25;736:11; 737:2;740:3,9,12,17; 745:10,17;766:2 objections (2) 771:16,16 obtain (1) 744:4 obtained (1) 754:8 obviously (6) 691:7;715:5;739:5; 767:8;778:15;790:22 occasion (2) 679:7;694:4 occurred (1) 785:13 off (12) 667:24;669:24; 680:3;700:12; 710:12;713:15; 719:6,14;746:9; 764:18;788:6;798:19 offer (10) 676:20;677:16,17; 678:8,19;717:15; 719:1,16;726:2,9 offered (1) 722:4 offering (1) 710:23 office (39) 663:24;669:9; 673:25;674:10; 679:9,13,16;686:24; 691:22;692:14,15; 693:23;694:10; 701:17;705:18; 706:18;710:21; 738:9,18;739:17; 741:14;744:14; 745:9,16;747:2;	754:18,23;756:21; 760:20;761:19; 767:25;769:21; 775:4,22;782:17,20, 21;784:4;790:7 OFFICER (513) 661:3,6,15,22,25; 662:3,6,8,11;663:9; 666:24;667:2,6,11, 13,17;668:2,8,10,15; 669:2,4,22;670:1,3,6, 9,11,13,15,19,21,23, 25;671:2,4,6;672:12, 16,23,25;673:2,5,7; 674:18;675:17,20,22, 25;676:4,6,8,11,21, 23;678:5,10,12,16, 18,20,22;679:1; 680:4,6,16,18;683:8, 12,14;685:25;686:3, 8,17;687:4,8,10,17, 19,21;688:16,18; 693:19,22;694:2,5,8, 12,24;695:1,4,8,14, 17,19,21,25;696:3, 15,17,19,21,24; 697:4,8,11,13,16,20, 22,24;698:2,4,9,12, 14,17,19,22;699:3,9, 12,16,18,21,23; 700:1,5,7,10,14,18, 22,24;701:4,7,12,15, 18,21,25;702:15,18; 703:9,15,18,20; 704:19,25;705:4,7; 706:3,5,8,10,20,23; 707:1,3;708:1,5,16, 18,22;709:12,14,16, 19,22,24;710:2,4,6,8, 12,15,25;711:3,8,10, 13;712:19,22;713:1, 3,11,18;714:1,4,8,12, 18,25;715:2,12,14, 19,22;716:5,10,12, 15,24;717:3,5,11,17, 20,23;718:1,3,5,11, 16,21;719:2,5,9,11, 13,15,20;720:2,4,6,8, 13,21,23,25;721:9, 11,16,18,21,23,25; 722:2,6,12,21,24; 723:4,7,11,13,15,18, 24;724:3,6,8,13,17; 725:11,18;726:1,8, 13,16,19,24;727:2,5, 7,21,24;728:4,11,14, 15,16;729:4,24; 730:2,8,19,22; 731:18;732:3,6,18, 21;733:9,11,14,25; 734:2,4,7,12,15; 735:4;736:12,21; 737:1,3,12,15,17,21,
N				
name (16) 661:13;671:11; 675:3,13;677:17; 698:5,6;707:20; 722:4;723:1,3,9; 724:1,4;759:13; 762:4 named (1) 713:24 names (4) 714:2;722:14,16, 18 National (1) 772:6 nature (1) 731:14	next (3) 693:4;723:16; 750:21 non- (4) 729:15;769:11; 776:14;791:24 non-acute (4) 777:11,19;788:23; 791:21 none (3) 769:1;782:6;784:9 non-professional (9) 769:16,19;770:3; 776:11,13,18;777:5;			
		O		
		O'clock (4) 767:24;778:20; 779:21;780:5 Oakwood (1)		

25;738:8,12,16,19, 24;739:3,18,21,24; 740:4,6,13,16,18,20, 22;741:7,10,12,17, 20,24;742:2,4,7,11, 15,18,21,24;743:2,7, 10,13,17,20;745:21, 23,25;746:2,6,9,12; 747:1;749:5,9,24; 750:1,19,22;752:24; 753:2,5,7,25;754:3,6, 13;755:2,4,12,16,21, 23,25;757:10,12,14, 21,23,25;758:11,15, 17,19;759:8,11,25; 760:3,6,8,13,16,22; 761:3,5,7,9,14,17,21, 24;762:19;763:4,7,9, 12,15,17,21;764:8, 11,15,17;765:3,11, 13,15,17,22;766:1,3, 5,7,9,12,14,16,19; 767:19,23;768:7,16, 19,21,25;769:3,5; 771:1,4,19;773:5,7, 10,12,17,21;774:4, 10,20,22,24;775:1,6, 9;778:25;779:10,12, 14,16;780:2,8,11,16, 20,23;781:1,5,8,10, 20,22;785:18,23; 786:12,15,18,20,23, 25;787:2,6,13,18,21, 25;788:2,4,8,16,20; 789:1,6,14,16,23,25; 790:3,5,7,13,15,20; 795:4,9,11,17,20,22, 24;797:11,14,18,21; 798:1,4,6,13,15,17,19	705:5;711:18;718:7, 25;721:5;724:9; 725:18,19;726:15,21; 748:19;749:14; 751:12,17,24,24; 752:17;753:17; 754:21,22,22;759:4; 763:4;764:18;765:5, 24;766:4;768:22; 771:2,23,24;774:3,5; 775:20;777:8,11,20, 22;778:18;783:2; 784:20;791:3,15; 795:18,25;797:12,12, 13,19	organization (5) 663:18;674:24; 712:16;783:9;793:19 organizations (2) 712:3,9 orientation (3) 784:20;793:23,25 original (2) 678:13,14 Orthopedics (1) 684:5 others (1) 747:16 otherwise (1) 776:6 ought (1) 668:25 out (32) 674:3,6;694:14,15; 695:10;725:20; 726:12;731:10,22,23; 738:5,8;739:6;741:2, 2;742:14,15;743:11; 744:7,9;751:24; 752:21,25;753:3; 755:10;765:18; 766:20;767:8; 781:12,24;789:2; 790:9 outlines (1) 715:17 outpatient (9) 677:5;688:8,19; 705:22,25;715:7; 792:5,5,9 outreach (2) 693:11,15 outs (1) 719:17 outset (1) 722:13 outside (4) 688:9,12;697:1; 772:10 outstanding (1) 765:6 over (8) 667:8;684:7; 686:23;690:19; 693:24;731:12; 739:5;769:14 overall (2) 781:17;797:7 overrode (1) 700:14 Overruled (3) 678:22;680:16; 727:22 overruling (2) 668:11;679:2 oversees (1) 665:12 oversight (3)	665:3;681:1;683:1 own (6) 689:2;694:19; 697:17,18;778:2; 791:7 owned (3) 748:11,12,12 ownership (5) 712:2;726:10; 735:2;794:7,11 owns (1) 748:17 Oxygen (2) 720:1,15	Parking (2) 685:4,5 part (51) 671:11;675:15; 676:15;679:5;682:1, 17;685:17;689:13; 693:14;696:8; 699:13;703:12; 705:13;715:8,9,16; 744:7,12;750:12; 756:3;760:5;769:11, 15;770:15;771:7,8,9, 11,17;772:21; 773:23;774:10; 775:14;779:6; 781:13,16;785:10,11, 24;787:3,4,22; 791:19;792:6,11,15, 16;793:6,8,24,24 particular (6) 662:20;667:22; 670:4;677:11; 729:18;796:8 particularly (3) 716:3;718:6;767:1 parties (5) 722:13,14,19; 768:3;791:11 Partly (1) 781:11 parts (1) 744:2 party (3) 794:22,22;797:3 PAs (1) 787:22 passes (1) 731:8 past (1) 785:13 patient (16) 665:13;682:4; 686:16;690:9; 691:12,12,15;693:2; 704:13;705:1;716:1, 25;717:10;749:19; 758:7;769:21 patient's (1) 691:16 patients (9) 695:10,22;702:23; 703:24;704:8,11; 705:9;792:7,9 Pavilion (9) 685:15,19,20,21, 22,23;686:5,12; 706:18 pay (2) 703:24;712:8 Pediatric (3) 684:8,8;768:11 Pediatrics (5) 682:21,22;683:1;
--	--	---	--	---

690:3;707:9 people (3) 692:5;769:1;790:7 per (1) 752:14 perform (7) 682:12;732:24; 733:2,6;745:6;747:6; 748:20 performed (1) 782:6 performs (1) 736:8 period (1) 753:22 permit (1) 698:6 permitted (1) 775:12 permitting (1) 767:3 person (4) 668:3,4;680:12; 762:22 personal (1) 745:18 personally (2) 736:1;745:12 personnel (4) 672:1;673:10; 712:17;745:15 petition (29) 722:7,22,22;723:1, 9,10;725:17;769:8, 10;770:4;772:23; 774:6,17,19,20,21; 775:4,5,17;776:9,18; 777:7;778:12; 785:15,16;786:10,10; 788:17;789:1 petitioned (6) 718:20;728:10; 769:25;770:13; 771:25;775:18 Petitioner (10) 722:16;768:12; 790:16,18,22;792:20; 795:1;796:9,18; 798:1 petitioning (1) 792:20 Petitions (6) 723:12;728:13; 775:8;778:6,9;779:9 phone (2) 731:3,12 physical (4) 664:17;698:14,15; 731:19 physically (1) 664:17 physician (33) 663:21;668:25;	689:11,13,22,25; 691:4,10,11,14,14; 692:15;693:7,11; 704:9;707:20; 708:12,14;709:2; 750:14;769:23; 770:7,12;771:13; 772:12,17;775:24; 783:9;787:15;789:3, 11;793:20,21 physician's (10) 691:5;694:8;696:7, 8;697:17;714:20; 758:8;782:14,14; 787:10 physicians (18) 677:16;689:1,4,7; 690:13,17,21;692:10; 693:14,16;694:17; 695:16,22;703:8,14; 708:19;709:2;758:7 physicians' (1) 663:19 pick (2) 724:13;731:3 picture (3) 708:2;713:18; 716:13 piece (11) 672:9;682:7; 729:18;735:13,13,15, 23;744:21;748:11,17, 22 pieces (3) 736:7;752:4; 753:19 place (2) 731:1;753:23 placed (2) 705:25;792:3 Plaza (1) 707:7 Please (8) 669:2;683:20; 723:18;763:17; 767:2,9,13;795:24 plural (1) 723:14 pm (4) 764:19;765:2; 767:12;798:20 point (14) 691:17;694:9; 713:8;749:3;765:4, 19;766:20;775:7; 789:9;790:12;795:6, 11,17;796:20 points (11) 767:4,4,10,14; 778:20,23;779:6; 780:4;781:13; 790:24;797:4 polices (1)	782:23 policies (2) 665:13;771:13 policy (2) 774:8;778:10 portable (1) 751:19 position (14) 662:18;672:20; 714:15;724:23; 746:25;762:5;767:7; 779:19;781:3;786:8; 787:4,12;792:14; 793:13 positions (1) 793:9 positively (1) 705:12 possible (2) 718:22;784:23 possibly (1) 762:23 practical (1) 769:22 practice (64) 668:25;669:10,12, 14,18;677:15,17,19, 22,23;681:12;689:4, 10,11,13;690:3,21; 691:4,5,10,11,22; 694:3,9,18,18,20,22; 696:7,9;697:1,17; 703:2,6,7,12,25; 704:10,15;705:2; 714:20;719:19; 720:14;748:21; 749:11;754:25; 755:20;770:6;771:6, 11,17;772:20;775:13, 17;781:25;782:2,14, 15;784:4,5,15; 787:10;789:11,15 practices (23) 662:23;663:19,21; 681:2;682:4,6;689:2, 23,25;690:6,22; 693:7;707:8,21; 708:12,14;709:2; 761:12;771:13; 774:8;783:10; 793:21,21 prayer (1) 685:3 precluded (1) 771:13 prejudicial (1) 795:13 premises (1) 731:19 prepared (1) 715:11 president (9) 662:19;664:4,13;	666:5,18;667:21; 675:4;794:9,10 press (2) 720:17;790:17 presume (1) 779:23 presumption (1) 797:15 presumptively (2) 797:22,25 pretty (4) 729:16;732:1; 752:15,22 previously (2) 661:8;666:20 primary (4) 690:2;691:14; 712:1;791:10 print (1) 719:17 printing (1) 765:18 prior (1) 785:5 private (3) 689:2;694:19; 704:9 privileges (2) 689:1;698:25 Priyev (1) 762:4 pro (1) 774:14 Probably (3) 689:21;729:7; 749:7 problem (8) 691:16;724:18; 731:4,13;764:10; 777:20;780:17; 788:13 problematic (1) 789:2 procedure (2) 740:15,23 procedures (9) 691:18,21,23; 692:1,2,7;732:24; 733:1,6 proceed (2) 796:19;797:8 proceeding (2) 763:11;794:22 process (8) 672:19;735:9; 738:6;741:18;744:9; 753:12;780:14; 798:11 processing (1) 740:2 produce (1) 711:7 professional (19)	712:17;769:11,12, 15,19;770:3,5,10; 772:13,14;776:11,13, 14,15,16,18;777:5,6; 788:15 professionals (6) 772:15;776:3; 777:3;786:6;788:11; 789:5 profit (2) 783:9,11 Program (1) 683:24 programs (2) 684:12,13 prohibit (1) 770:17 prohibited (2) 772:5;775:16 proliferation (2) 774:15;783:4 promoted (1) 666:7 proper (2) 758:6,20 proscribed (1) 774:8 proscribes (1) 772:13 Prospect (52) 668:18;669:7; 677:15,18,23;678:3; 679:5,9,22;680:1; 681:16;682:15,17; 686:10,19,21;689:10; 698:20;703:4; 704:17;707:6; 711:17;716:9; 725:21;727:8,10; 728:7,24;729:2; 732:12;734:17; 735:20,24;737:18,20; 744:24;745:2,2; 747:7;756:12,15; 757:3;760:21; 768:10,12;769:18; 771:7;776:12; 777:14,17;778:1; 782:10 prove (1) 796:17 provide (13) 663:17,18;665:3; 681:1;691:6;712:16; 791:2,4,23,24;792:7, 13;794:16 provided (9) 677:23;678:3; 688:22;692:22; 713:21;716:2; 792:16;793:19; 794:25 provides (4)
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688:8;691:12; 783:11;792:4 providing (2) 695:5;793:20 provision (2) 716:22;775:11 provisions (1) 778:10 Psych (2) 684:14,14 Psychiatric (1) 684:13 public (1) 792:7 purchase (6) 727:6;737:9,9; 739:22;740:1,7 purchased (2) 737:19;754:25 purchasing (25) 736:18;737:11; 738:4,6,8,21,24; 740:2,10;741:1,3,3,8, 13,16,16,22;742:12, 16,20,22;743:4,14; 744:10;755:9 purpose (1) 796:2 pursuant (1) 785:6 put (19) 672:6;678:15,16; 698:5;717:18;719:7; 720:5;722:7,25; 735:14;742:9;748:3; 751:24;758:13; 765:23;768:9;773:3; 780:24;784:8 putting (3) 716:25;717:22; 723:5	raise (7) 661:16;701:2,9,20; 723:18;769:9;778:13 raised (5) 779:4,6,17;781:2; 785:14 raises (1) 700:25 raising (3) 776:25;778:7; 780:13 ratios (1) 693:6 reach (1) 767:25 read (3) 685:24;688:14,18 reader (1) 743:21 reading (1) 784:16 reality (1) 791:20 Really (6) 763:6;778:16; 790:10;792:15; 794:15;796:19 re-ask (1) 761:9 reason (1) 797:24 recall (10) 682:6,24;701:10; 739:1,2;747:16,18; 748:1;753:19;760:7 receive (6) 673:22;711:6; 715:22;718:6; 730:15,21 received (18) 674:9;676:23,25; 678:23;712:23,24; 713:11;715:24; 716:19;718:8,21; 721:2,3,11,13; 744:14;765:20; 767:15 receives (2) 731:6,7 receiving (2) 716:16;767:15 recently (3) 701:9;749:1; 752:17 recess (7) 670:2;680:5; 710:11,14;719:8; 746:11;764:19 recognize (3) 671:19;674:22; 798:9 recognized (1) 711:19	Recognizing (1) 791:12 record (72) 661:3,4,5;669:24; 670:3;680:3,6;687:5; 710:13,15,16;717:7; 719:6,9;720:17; 722:1,13,18;724:1; 743:3,21;744:23; 746:10,12;764:18; 765:3,6,7,21,24; 766:21,23,25;767:9, 16,16;768:9;770:7; 774:19;777:6; 779:18;780:11,25; 781:24;782:16; 783:5,13;784:16; 792:3;793:1;794:6, 21;795:6,14,15,16, 18,19,21,23;796:2,7, 10,11,14,15,16,20; 797:23;798:7,8,19 record's (1) 796:1 records (5) 661:11;795:7,11, 17;796:11 RECROSS (1) 763:23 recruiting (6) 693:14;708:8,9,11, 17;709:2 REDIRECT (2) 702:2;760:17 refer (4) 668:25;669:4; 722:11;736:8 reference (16) 675:19;677:14,19, 22;711:15,22;712:6, 7,8,13;713:20,22; 714:1,24;767:8; 791:9 references (4) 712:8;713:23; 716:2;718:12 referencing (1) 711:16 referral (1) 704:9 referrals (1) 691:19 referred (8) 691:15;703:25; 704:7,14;705:9; 731:2;757:19;762:3 referring (10) 662:24;672:14; 677:12;679:16; 715:18;722:20; 723:4;752:18; 757:19;763:16 refers (2)	687:23;771:2 reflect (1) 722:18 regard (13) 665:17;668:18; 669:11,15,17;671:23; 705:9;708:8;745:9; 776:9,23;777:24; 790:23 regarding (7) 681:13;719:18; 721:7;778:7,11; 782:20;783:6 regardless (1) 748:17 regards (1) 702:23 Region (3) 778:12;779:20,20 Regional (15) 661:10;767:3; 778:12,21;779:1,3,4, 7,15;785:19,25; 786:4;787:9;789:17; 796:21 registered (11) 711:18;770:8,9,12; 772:11,18,19;776:5, 19;788:14,19 regular (4) 679:6;693:6; 769:11,15 regulations (5) 690:11,13,17; 697:6,7 regulatory (2) 681:6;690:8 rehab (1) 684:5 reimbursement (1) 712:8 related (3) 663:2;712:3,8 Relations (3) 772:6;783:7; 794:13 relationship (3) 726:13;777:16; 794:6 release (1) 720:17 relevance (20) 666:22;678:21,24; 703:8,14;707:25; 708:13;711:9,13; 713:19,20;715:21; 717:9;718:4,9; 720:20;725:9,16; 727:18;734:25 relevant (14) 667:7,9,11,14; 708:3,24;711:14; 713:7;716:14;	718:18;725:24; 727:19,21;728:13 relocate (2) 682:2,8 relocated (2) 682:1,20 remainder (1) 674:6 remember (4) 746:22;748:23; 754:13;757:18 repair (1) 737:6 repeat (5) 708:25;719:15; 732:25;781:9,15 repeatedly (2) 772:8;791:16 rephrase (2) 691:5;730:9 replace (3) 729:22;753:23,24 replaced (7) 737:5;748:22,25; 751:15;753:21; 759:16;760:5 replacement (3) 736:18;744:2,12 report (10) 664:1;668:1,6,13; 713:14;714:9; 717:13;782:21; 784:5;793:16 reported (1) 783:14 REPORTER (1) 766:17 reporting (1) 710:19 represent (11) 770:8,11,12;772:7, 16,18;777:17; 780:15;783:1;785:5; 791:4 representation (15) 667:10;678:25; 717:9;718:10,14; 769:10;770:2; 776:21;777:1; 778:14;783:18,19,21, 24;785:14 represented (4) 762:16,22;768:12; 769:20 representing (1) 722:19 request (4) 748:20;760:10; 778:19;780:3 requested (2) 747:23;795:1 requests (1) 747:19
Q				
QCR (4) 727:19;778:16; 783:20,20 qualifications (1) 784:7 quite (1) 768:22 quote (12) 737:7;739:11,12, 14,19,19;754:8,17; 755:10;771:25; 772:9;785:11 quotes (1) 754:18				
R				
Radiology (4) 684:2,3,9;766:13				

require (4) 704:14;730:15; 737:7;744:2	returned (1) 674:12	781:6	19,22;716:5,10,12, 15,24;717:3,5,11,17, 20,23;718:1,3,5,11, 16,21;719:2,5,9,11, 13,15,20;720:2,4,6,8, 13,21,23,25;721:9, 11,16,18,21,23,25; 722:2,6,12,21,24; 723:4,7,11,13,15,18, 24;724:3,6,8,13,17; 725:11,18;726:1,8, 16,19,24;727:2,5,7, 21,24;728:4,11,14, 16;729:4,24;730:2,8, 19,22;731:18;732:3, 6,18,21;733:9,11,14, 25;734:2,4,7,12,15; 735:4;736:12,21; 737:1,3,12,15,17,21, 25;738:8,12,16,19, 24;739:3,18,21,24; 740:4,6,13,16,18,20, 22;741:7,10,12,17, 20,24;742:2,4,7,11, 15,18,21,24;743:2,7, 10,13,17,20;745:21, 23,25;746:2,6,9,12; 747:1;749:5,9,24; 750:1,19,22;752:24; 753:2,5,7,25;754:3,6, 13;755:2,4,12,16,21, 23,25;757:10,12,14, 21,23,25;758:11,15, 17,19;759:8,11,25; 760:3,6,8,13,16,22; 761:3,5,7,9,14,17,21, 24;762:19;763:4,7,9, 12,15,17,21;764:8, 11,15,17;765:3,11, 13,15,17,22;766:1,3, 5,7,9,12,14,16,19, 767:19,23;768:7,16, 19,21,25;769:3,5; 771:1,4,19;773:5,7, 10,12,17,21;774:4, 10,20,22,24;775:1,6, 9;778:25;779:12,14, 16;780:2,8,11,16,20, 23;781:1,5,8,10,20, 22;785:18,23;786:12, 15,18,20,23,25; 787:2,6,13,18,21,25; 788:2,4,8,16,20; 789:1,6,14,16,23,25; 790:3,5,7,13,15,20; 795:4,9,11,17,20,22, 24;797:11,14,18,21; 798:1,4,6,13,15,17,19	779:18;780:8
required (2) 710:19,22	reveal (1) 698:23	salaries (2) 700:19,19	seat (1) 723:24	
requisition (22) 673:10;738:4,4,9, 21,25;739:22;740:1, 7;741:1,4,10,14,22; 742:13,16;743:5,9, 14;744:7,8;753:13	right (44) 661:17;685:17; 686:5;687:19; 695:17;697:15; 699:4;704:24; 708:21;711:24; 722:20;723:15,19; 726:5;730:8;738:20; 741:4;742:13;746:2; 755:14;761:25; 762:6;765:7;768:3, 21,24;769:2;773:16; 774:5,20;775:9; 780:14;781:8; 785:21,23;786:12,18; 787:6,7,21;789:19; 790:3;795:8;796:15	same (19) 673:13,14;691:6; 700:11;706:12; 735:22;738:18; 740:15,23,24;741:18; 744:9;777:20; 782:20;784:1,9,12; 787:13;792:22	sec (1) 786:2	
requisitions (1) 742:10	rightful (1) 797:2	satellite (4) 715:7;761:20,22; 763:5	second (10) 668:7;705:24; 722:22;723:10; 749:15;764:18; 766:20;778:18,24; 795:25	
rescheduling (1) 723:2	rightly (2) 794:15,22	saw (1) 670:15	Secondly (2) 770:4;776:16	
residency (1) 684:11	RN (2) 787:21;789:2	saying (10) 682:10;692:1; 705:1;714:5,8;726:6; 774:12,13;779:14; 788:16	secretary (1) 673:23	
residual (18) 769:18;770:13; 772:9,10,16,21; 774:1,2,7,12,18; 775:12,16,24;776:12; 778:3;785:11;790:11	RNs (1) 787:17	scanner (1) 735:18	section (5) 671:2;682:13,15; 767:6;776:21	
resign (2) 670:25;671:1	road (1) 723:3	scenario (1) 789:17	seek (4) 770:5,8,9;772:8	
resigned (1) 671:4	Robotic (1) 683:25	SCHAEFER (510) 661:3,7,15,22,25; 662:3,6,8,11;663:9; 666:24;667:2,6,11, 13,17;668:2,8,10,15; 669:2,4,22;670:1,3,6, 9,11,13,15,19,21,23, 25;671:2,4,6;672:12, 16,23,25;673:2,5,7; 674:18;675:17,20,22, 25;676:4,6,8,11,21, 23;678:5,10,12,16, 18,20,22;679:1; 680:4,6,16,18;683:8, 12,14;685:25;686:3, 8,17;687:4,8,10,17, 19,21;688:16,18; 693:19,22;694:2,5,8, 12,24;695:1,4,8,14, 17,19,21,25;696:3, 15,17,19,21,24; 697:4,8,11,13,16,20, 22,24;698:2,4,9,12, 14,17,19,22;699:3,9, 12,16,18,21,23; 700:1,5,7,10,14,18, 22,24;701:4,7,12,15, 18,21,25;702:15,18; 703:9,15,18,20; 704:19,25;705:4,7; 706:3,5,8,10,20,23; 707:1,3;708:1,5,16, 18,22;709:12,14,16, 19,22,24;710:2,4,6,8, 12,15,25;711:3,8,10, 13;712:19,22;713:1, 3,11,18;714:1,4,8,12, 18,25;715:2,12,14,	seeking (17) 772:11,12,14,16, 19;774:1,2,7,14; 776:16,18,19;788:14, 14,18;790:11;792:23	
resign (2) 670:25;671:1	rooms (2) 684:22;686:16	SCHEFER (510) 661:3,7,15,22,25; 662:3,6,8,11;663:9; 666:24;667:2,6,11, 13,17;668:2,8,10,15; 669:2,4,22;670:1,3,6, 9,11,13,15,19,21,23, 25;671:2,4,6;672:12, 16,23,25;673:2,5,7; 674:18;675:17,20,22, 25;676:4,6,8,11,21, 23;678:5,10,12,16, 18,20,22;679:1; 680:4,6,16,18;683:8, 12,14;685:25;686:3, 8,17;687:4,8,10,17, 19,21;688:16,18; 693:19,22;694:2,5,8, 12,24;695:1,4,8,14, 17,19,21,25;696:3, 15,17,19,21,24; 697:4,8,11,13,16,20, 22,24;698:2,4,9,12, 14,17,19,22;699:3,9, 12,16,18,21,23; 700:1,5,7,10,14,18, 22,24;701:4,7,12,15, 18,21,25;702:15,18; 703:9,15,18,20; 704:19,25;705:4,7; 706:3,5,8,10,20,23; 707:1,3;708:1,5,16, 18,22;709:12,14,16, 19,22,24;710:2,4,6,8, 12,15,25;711:3,8,10, 13;712:19,22;713:1, 3,11,18;714:1,4,8,12, 18,25;715:2,12,14,	seeks (2) 769:10;774:23	
resolved (1) 778:8	rule (2) 779:10;796:3	schaefer (510) 661:3,7,15,22,25; 662:3,6,8,11;663:9; 666:24;667:2,6,11, 13,17;668:2,8,10,15; 669:2,4,22;670:1,3,6, 9,11,13,15,19,21,23, 25;671:2,4,6;672:12, 16,23,25;673:2,5,7; 674:18;675:17,20,22, 25;676:4,6,8,11,21, 23;678:5,10,12,16, 18,20,22;679:1; 680:4,6,16,18;683:8, 12,14;685:25;686:3, 8,17;687:4,8,10,17, 19,21;688:16,18; 693:19,22;694:2,5,8, 12,24;695:1,4,8,14, 17,19,21,25;696:3, 15,17,19,21,24; 697:4,8,11,13,16,20, 22,24;698:2,4,9,12, 14,17,19,22;699:3,9, 12,16,18,21,23; 700:1,5,7,10,14,18, 22,24;701:4,7,12,15, 18,21,25;702:15,18; 703:9,15,18,20; 704:19,25;705:4,7; 706:3,5,8,10,20,23; 707:1,3;708:1,5,16, 18,22;709:12,14,16, 19,22,24;710:2,4,6,8, 12,15,25;711:3,8,10, 13;712:19,22;713:1, 3,11,18;714:1,4,8,12, 18,25;715:2,12,14,	seems (2) 694:13;731:13	
resource (1) 782:23	rules (7) 697:6;770:16; 775:10;776:7; 780:18,19,22	schaefer (510) 661:3,7,15,22,25; 662:3,6,8,11;663:9; 666:24;667:2,6,11, 13,17;668:2,8,10,15; 669:2,4,22;670:1,3,6, 9,11,13,15,19,21,23, 25;671:2,4,6;672:12, 16,23,25;673:2,5,7; 674:18;675:17,20,22, 25;676:4,6,8,11,21, 23;678:5,10,12,16, 18,20,22;679:1; 680:4,6,16,18;683:8, 12,14;685:25;686:3, 8,17;687:4,8,10,17, 19,21;688:16,18; 693:19,22;694:2,5,8, 12,24;695:1,4,8,14, 17,19,21,25;696:3, 15,17,19,21,24; 697:4,8,11,13,16,20, 22,24;698:2,4,9,12, 14,17,19,22;699:3,9, 12,16,18,21,23; 700:1,5,7,10,14,18, 22,24;701:4,7,12,15, 18,21,25;702:15,18; 703:9,15,18,20; 704:19,25;705:4,7; 706:3,5,8,10,20,23; 707:1,3;708:1,5,16, 18,22;709:12,14,16, 19,22,24;710:2,4,6,8, 12,15,25;711:3,8,10, 13;712:19,22;713:1, 3,11,18;714:1,4,8,12, 18,25;715:2,12,14,	SEIU (3) 762:18;768:12; 769:20	
resources (3) 705:18;793:13; 794:11	safety (2) 665:13;690:9	schaefer (510) 661:3,7,15,22,25; 662:3,6,8,11;663:9; 666:24;667:2,6,11, 13,17;668:2,8,10,15; 669:2,4,22;670:1,3,6, 9,11,13,15,19,21,23, 25;671:2,4,6;672:12, 16,23,25;673:2,5,7; 674:18;675:17,20,22, 25;676:4,6,8,11,21, 23;678:5,10,12,16, 18,20,22;679:1; 680:4,6,16,18;683:8, 12,14;685:25;686:3, 8,17;687:4,8,10,17, 19,21;688:16,18; 693:19,22;694:2,5,8, 12,24;695:1,4,8,14, 17,19,21,25;696:3, 15,17,19,21,24; 697:4,8,11,13,16,20, 22,24;698:2,4,9,12, 14,17,19,22;699:3,9, 12,16,18,21,23; 700:1,5,7,10,14,18, 22,24;701:4,7,12,15, 18,21,25;702:15,18; 703:9,15,18,20; 704:19,25;705:4,7; 706:3,5,8,10,20,23; 707:1,3;708:1,5,16, 18,22;709:12,14,16, 19,22,24;710:2,4,6,8, 12,15,25;711:3,8,10, 13;712:19,22;713:1, 3,11,18;714:1,4,8,12, 18,25;715:2,12,14,	self (2) 776:4;785:11	
respect (11) 664:20;665:1,10; 680:21,24;711:14; 718:18,19;745:16; 796:24;797:5	sake (1)	schaefer (510) 661:3,7,15,22,25; 662:3,6,8,11;663:9; 666:24;667:2,6,11, 13,17;668:2,8,10,15; 669:2,4,22;670:1,3,6, 9,11,13,15,19,21,23, 25;671:2,4,6;672:12, 16,23,25;673:2,5,7; 674:18;675:17,20,22, 25;676:4,6,8,11,21, 23;678:5,10,12,16, 18,20,22;679:1; 680:4,6,16,18;683:8, 12,14;685:25;686:3, 8,17;687:4,8,10,17, 19,21;688:16,18; 693:19,22;694:2,5,8, 12,24;695:1,4,8,14, 17,19,21,25;696:3, 15,17,19,21,24; 697:4,8,11,13,16,20, 22,24;698:2,4,9,12, 14,17,19,22;699:3,9, 12,16,18,21,23; 700:1,5,7,10,14,18, 22,24;701:4,7,12,15, 18,21,25;702:15,18; 703:9,15,18,20; 704:19,25;705:4,7; 706:3,5,8,10,20,23; 707:1,3;708:1,5,16, 18,22;709:12,14,16, 19,22,24;710:2,4,6,8, 12,15,25;711:3,8,10, 13;712:19,22;713:1, 3,11,18;714:1,4,8,12, 18,25;715:2,12,14,	self-determination (1) 776:2	
respectfully (2) 778:5,19	S	schaefer (510) 661:3,7,15,22,25; 662:3,6,8,11;663:9; 666:24;667:2,6,11, 13,17;668:2,8,10,15; 669:2,4,22;670:1,3,6, 9,11,13,15,19,21,23, 25;671:2,4,6;672:12, 16,23,25;673:2,5,7; 674:18;675:17,20,22, 25;676:4,6,8,11,21, 23;678:5,10,12,16, 18,20,22;679:1; 680:4,6,16,18;683:8, 12,14;685:25;686:3, 8,17;687:4,8,10,17, 19,21;688:16,18; 693:19,22;694:2,5,8, 12,24;695:1,4,8,14, 17,19,21,25;696:3, 15,17,19,21,24; 697:4,8,11,13,16,20, 22,24;698:2,4,9,12, 14,17,19,22;699:3,9, 12,16,18,21,23; 700:1,5,7,10,14,18, 22,24;701:4,7,12,15, 18,21,25;702:15,18; 703:9,15,18,20; 704:19,25;705:4,7; 706:3,5,8,10,20,23; 707:1,3;708:1,5,16, 18,22;709:12,14,16, 19,22,24;710:2,4,6,8, 12,15,25;711:3,8,10, 13;712:19,22;713:1, 3,11,18;714:1,4,8,12, 18,25;715:2,12,14,	self-referral (1) 691:13	
respond (5) 712:19;719:1; 726:7;778:23;798:2	sent (3) 672:6;673:21; 739:21	schaefer (510) 661:3,7,15,22,25; 662:3,6,8,11;663:9; 666:24;667:2,6,11, 13,17;668:2,8,10,15; 669:2,4,22;670:1,3,6, 9,11,13,15,19,21,23, 25;671:2,4,6;672:12, 16,23,25;673:2,5,7; 674:18;675:17,20,22, 25;676:4,6,8,11,21, 23;678:5,10,12,16, 18,20,22;679:1; 680:4,6,16,18;683:8, 12,14;685:25;686:3, 8,17;687:4,8,10,17, 19,21;688:16,18; 693:19,22;694:2,5,8, 12,24;695:1,4,8,14, 17,19,21,25;696:3, 15,17,19,21,24; 697:4,8,11,13,16,20, 22,24;698:2,4,9,12, 14,17,19,22;699:3,9, 12,16,18,21,23; 700:1,5,7,10,14,18, 22,24;701:4,7,12,15, 18,21,25;702:15,18; 703:9,15,18,20; 704:19,25;705:4,7; 706:3,5,8,10,20,23; 707:1,3;708:1,5,16, 18,22;709:12,14,16, 19,22,24;710:2,4,6,8, 12,15,25;711:3,8,10, 13;712:19,22;713:1, 3,11,18;714:1,4,8,12, 18,25;715:2,12,14,	send (3) 695:9,22;744:8	
response (4) 666:20;693:11; 718:17;798:5	senior (2) 667:21;794:9	schaefer (510) 661:3,7,15,22,25; 662:3,6,8,11;663:9; 666:24;667:2,6,11, 13,17;668:2,8,10,15; 669:2,4,22;670:1,3,6, 9,11,13,15,19,21,23, 25;671:2,4,6;672:12, 16,23,25;673:2,5,7; 674:18;675:17,20,22, 25;676:4,6,8,11,21, 23;678:5,10,12,16, 18,20,22;679:1; 680:4,6,16,18;683:8, 12,14;685:25;686:3, 8,17;687:4,8,10,17, 19,21;688:16,18; 693:19,22;694:2,5,8, 12,24;695:1,4,8,14, 17,19,21,25;696:3, 15,17,19,21,24; 697:4,8,11,13,16,20, 22,24;698:2,4,9,12, 14,17,19,22;699:3,9, 12,16,18,21,23; 700:1,5,7,10,14,18, 22,24;701:4,7,12,15, 18,21,25;702:15,18; 703:9,15,18,20; 704:19,25;705:4,7; 706:3,5,8,10,20,23; 707:1,3;708:1,5,16, 18,22;709:12,14,16, 19,22,24;710:2,4,6,8, 12,15,25;711:3,8,10, 13;712:19,22;713:1, 3,11,18;714:1,4,8,12, 18,25;715:2,12,14,	sent (3) 672:6;673:21; 739:21	
responsibilities (1) 693:15	sentence (2) 726:5;797:12	schaefer (510) 661:3,7,15,22,25; 662:3,6,8,11;663:9; 666:24;667:2,6,11, 13,17;668:2,8,10,15; 669:2,4,22;670:1,3,6, 9,11,13,15,19,21,23, 25;671:2,4,6;672:12, 16,23,25;673:2,5,7; 674:18;675:17,20,22, 25;676:4,6,8,11,21, 23;678:5,10,12,16, 18,20,22;679:1; 680:4,6,16,18;683:8, 12,14;685:25;686:3, 8,17;687:4,8,10,17, 19,21;688:16,18; 693:19,22;694:2,5,8, 12,24;695:1,4,8,14, 17,19,21,25;696:3, 15,17,19,21,24; 697:4,8,11,13,16,20, 22,24;698:2,4,9,12, 14,17,19,22;699:3,9, 12,16,18,21,23; 700:1,5,7,10,14,18, 22,24;701:4,7,12,15, 18,21,25;702:15,18; 703:9,15,18,20; 704:19,25;705:4,7; 706:3,5,8,10,20,23; 707:1,3;708:1,5,16, 18,22;709:12,14,16, 19,22,24;710:2,4,6,8, 12,15,25;711:3,8,10, 13;712:19,22;713:1, 3,11,18;714:1,4,8,12, 18,25;715:2,12,14,	separate (15) 693:9;703:1; 707:23;774:14,16; 777:25;782:15; 783:13;784:3,6; 787:8;795:6,6,11,15	
responsibility (22) 664:24;665:1,10, 17;666:10,18,21; 668:19;669:11,14,16, 17;671:23;679:6; 680:21,21,24;681:22; 683:4;690:5;708:9; 709:1	separately (1) 796:25	schaefer (510) 661:3,7,15,22,25; 662:3,6,8,11;663:9; 666:24;667:2,6,11, 13,17;668:2,8,10,15; 669:2,4,22;670:1,3,6, 9,11,13,15,19,21,23, 25;671:2,4,6;672:12, 16,23,25;673:2,5,7; 674:18;675:17,20,22, 25;676:4,6,8,11,21, 23;678:5,10,12,16, 18,20,22;679:1; 680:4,6,16,18;683:8, 12,14;685:25;686:3, 8,17;687:4,8,10,17, 19,21;688:16,18; 693:19,22;694:2,5,8, 12,24;695:1,4,8,14, 17,19,21,25;6		

17;733:7,16,19; 734:7;735:23;736:7, 9;745:1,9;746:4; 748:20;759:14; 760:20;767:18,19,20, 23;789:11;793:19; 798:18	sign (5) 700:12;732:15; 738:3;754:9;755:9 signature (5) 671:18,21;673:15; 674:1,3 signed (2) 672:10;673:19 similarly (1) 711:19 simple (2) 691:23;778:18 simultaneously (1) 774:3 single (9) 772:2;775:15; 776:24;783:8,15; 794:19;797:16,22,24 sit (1) 661:4 site (8) 672:1;676:19; 679:24;691:19,20; 714:9;747:4;752:5 sites (2) 666:17;675:4 sitting (3) 764:9;766:16; 798:11 situation (1) 785:20 six (3) 713:23;744:21; 790:8 Sixth (1) 663:25 size (2) 751:21,23 slash (1) 723:5 Slope (1) 715:16 small (2) 748:24;772:4 sole (3) 712:14;785:19; 794:15 solely (5) 791:6,24;792:25; 793:21;794:16 somebody (2) 761:16,23 somehow (2) 775:15;793:10 someone (9) 678:14,16;699:15; 701:2;704:10,22; 742:7;768:25;796:2 sometime (3) 747:10;751:3,10 Sometimes (3) 690:19,19;742:12 Sonotone (4)	776:2;786:7; 787:22;788:12 soon (2) 753:22;755:6 sorry (31) 661:13;672:15; 673:6;675:9;678:5; 686:11;692:18; 696:19;700:4;703:9; 707:17;711:1,23; 716:5,10;719:16; 720:7;724:3,17; 730:11;732:7; 733:23;736:16; 746:16;755:17; 759:7;761:5,10; 765:11,15;780:3 sort (6) 698:6;700:11; 704:19;725:23,24; 761:17 sought (5) 773:2;775:17; 776:10;777:2,16 space (1) 682:2 speak (3) 704:18;724:10; 730:7 SPEAKER (6) 710:1;721:17,20; 727:6;766:6;789:21 speaks (4) 675:22;706:3,10, 19 special (2) 735:14;761:18 specialties (1) 684:8 specialty (1) 689:25 specific (8) 739:4;743:4;747:6; 751:13;770:23; 772:25;775:11;785:9 specifically (16) 677:8,9;691:11; 709:6;730:9;739:6; 747:25;752:19; 770:17;771:2;772:5, 13;777:13;785:7,12; 788:18 spell (2) 724:1,3 Spine (4) 682:18;683:1; 707:9;768:11 split (1) 786:19 splitting (2) 772:14;787:17 spot (2) 686:4,5	staff (7) 664:14;665:14,18; 692:4,6;713:22; 714:11 staffing (7) 679:22,25;680:2; 681:13;693:6;712:1; 794:17 standards (4) 775:19;776:6; 777:10;785:1 standing (4) 718:15;727:25; 728:1;797:15 standpoint (1) 694:22 stands (1) 789:1 start (4) 662:4;670:10; 769:14;770:2 starting (3) 667:17;713:23; 777:3 Starts (1) 720:11 State (11) 665:22;702:15,17, 18,19;710:21;721:5, 6;722:12;724:1; 792:13 stated (4) 661:8;722:16,18; 791:16 statement (9) 688:14;712:12,18; 779:19;781:3,7,22; 790:20;795:13 statements (3) 766:22;768:8; 781:11 status (7) 670:5;671:10; 672:8;726:21,23; 783:6,8 statutory (1) 779:25 stay (1) 682:8 staying (1) 732:4 steered (1) 793:10 step (6) 684:4,5;692:24; 693:1,2;694:15 stepped (1) 693:4 stick (1) 676:24 still (6) 702:11;773:24; 775:17;777:21;	780:2;789:21 stipulate (1) 722:14 stipulated (3) 722:13;770:20,24 stipulation (3) 768:20,21;793:17 stipulations (1) 785:6 Stop (3) 750:22;795:22,24 store (1) 684:25 Street (9) 663:25;685:5; 686:24;687:5,6; 705:17;711:25; 725:6;770:21 strike (5) 665:21;743:18; 744:14,25;795:3 Stroke (2) 683:24;684:3 stuff (4) 729:7;732:17; 790:17;796:16 subject (6) 715:18;772:6; 787:22;788:11,12,23 submit (8) 738:5;739:16; 741:22;742:16,20,21; 753:13;778:5 submits (1) 744:10 submitted (9) 739:11;741:4,11, 15;742:10;754:8; 755:6;783:12;797:4 subpoena (8) 711:5,5;796:1,3,4, 7,12,14 subpoenaed (1) 661:12 subspecialties (1) 690:2 success (1) 720:16 sufficient (2) 778:23;794:6 sufficiently (3) 743:21;797:2,6 suggest (4) 718:25;758:25; 763:8,18 suggested (1) 758:23 suggestion (1) 763:13 Suite (2) 769:18;771:7 suites (5) 728:6,12,17,18,20
---	---	---	---	--

summer (1) 747:23	748:6,7,9,12,17	726:10;743:18;773:1	770:1,13;772:19; 776:20;777:7	667:8;790:9
summertime (1) 747:10	tags (6) 735:19,24;748:1,3; 753:20;782:12	testing (2) 691:17,18	they're (34) 663:3;683:3,4; 688:22;699:14,24; 702:13;704:9;717:4; 23;720:2,6;723:25; 724:8;735:22;746:6; 758:14;766:23; 767:15;770:9; 772:19;774:7,14; 779:18;783:14; 787:17;788:17; 790:11;792:8,8,9; 793:12,19,24	tools (2) 692:13;729:9
super (1) 696:5	talk (2) 735:9;787:7	that's (86) 664:23;667:4; 668:2;669:22; 670:12;671:14; 672:12,16;673:7,8; 17;677:16,18; 685:17;686:16; 688:14,21;692:4; 693:16;695:18,19; 698:18;700:5;702:4; 15;703:12;705:23; 706:23;707:4;708:6; 710:8;711:18; 714:17;715:8,17; 718:14;719:21,25; 721:14,21;726:21; 727:1;728:13; 730:24;740:22,25; 741:24;742:6,7; 743:3;750:12;755:5; 6;757:10;758:8; 761:7;762:23; 763:17;765:5,24; 766:5;773:16; 774:14,25;775:9; 780:5;781:1,23; 783:12,17;786:25; 787:3,20;789:2,3; 790:10,11;791:11; 792:1;793:20;795:5; 5,6,13,15;796:21	663:3;683:3,4; 688:22;699:14,24; 702:13;704:9;717:4; 23;720:2,6;723:25; 724:8;735:22;746:6; 758:14;766:23; 767:15;770:9; 772:19;774:7,14; 779:18;783:14; 787:17;788:17; 790:11;792:8,8,9; 793:12,19,24	top (1) 667:24
supervise (1) 784:4	talked (6) 693:23;696:3; 746:15,17,19,21	technician (5) 724:24,25;725:8; 727:16;730:1	they've (2) 785:6;788:18	touch (2) 661:9;767:1
supervision (2) 784:3,6	talking (5) 732:19;757:25; 786:12;789:4;795:24	technologist (1) 766:15	thick (1) 717:4	tough (1) 686:3
supervisors (1) 742:19	Tania (1) 765:8	tech (2) 729:12;766:14	third (2) 705:24;795:19	toward (1) 712:13
supplies (2) 794:2,3	tax (2) 721:23;783:14	technical (7) 691:25;771:24; 772:1;775:21; 777:24;789:10,20	though (12) 710:9;727:24; 741:23;746:3; 748:23;767:7; 787:20;789:17,22,25; 790:5;794:4	traditional (1) 785:1
supply (1) 776:7	taxable (1) 712:4	technician (5) 724:24,25;725:8; 727:16;730:1	thought (2) 730:24;790:4	training (1) 784:19
support (3) 692:3,13;794:21	teaching (2) 683:21;684:12	tech (2) 729:12;766:14	three (5) 687:2;688:4,5; 725:2;777:24	trauma (3) 683:22;684:10,11
supporting (1) 767:7	technologist (1) 766:15	techs (1) 692:9	throughout (3) 677:10;741:18; 777:15	treated (1) 777:25
supposed (1) 748:8	tells (1) 704:10	term (2) 758:20;774:12	Thursday (1) 779:21	Treatment (3) 664:21;702:9; 705:11
sure (21) 662:1;670:1;682:8; 693:21;699:5; 716:14;721:25; 724:10,12;744:17,22; 748:1;752:2,15,20, 22;756:2;768:7,22, 25;781:19	term (2) 758:20;774:12	terminating (1) 699:15	tighter (1) 697:7	treats (1) 792:22
surgeon (1) 692:12	terminating (1) 699:15	terms (18) 668:11;683:4; 690:25;708:9;709:2; 718:13;721:14; 725:23;771:1,5; 778:25;779:7; 782:20;783:6,20; 796:14,19,22	timeframe (1) 699:8	tried (2) 786:16,17
surgeries (3) 692:2;695:12; 791:23	test (1) 752:2	test (1) 752:2	times (5) 679:15;746:19,20; 749:17;751:13	true (2) 775:9;790:10
Surgery (6) 683:24,25;684:1,1; 690:3;695:22	testified (10) 661:21;675:23; 707:23;723:23; 726:11;742:12; 750:1;757:8;782:3, 25	testify (1) 707:4	T-I-N (2) 724:6,7	trust (1) 712:4
surgical (2) 684:5;732:23	testifying (2) 661:8;740:21	testimony (5) 701:8;714:19;	title (4) 661:23;666:7; 667:20;775:4	try (5) 669:2;731:3,10; 737:4;739:6
Susan (1) 679:19	testimony (5) 701:8;714:19;	thereafter (1) 779:24	Titles (7) 769:20;784:7,8,9,9, 14;785:8	trying (4) 694:14,15;725:20; 726:12
Suzanne (9) 671:19;746:15,17, 19,21,25;754:23; 756:21;758:21	testimony (5) 701:8;714:19;	therefore (5)	today (4) 661:5;778:19; 779:18;798:7	turn (1) 705:22
sworn (2) 661:20;723:22	testimony (5) 701:8;714:19;		together (3) 719:7;742:10,10	turning (2) 677:18,21
system (2) 704:9;729:23	testimony (5) 701:8;714:19;		told (4) 704:8,25;779:20; 786:20	two (24) 668:9;670:20,22; 682:3,20;711:21; 715:17;726:11; 728:10;740:25; 745:5;761:18; 772:24;773:17; 774:2,7,7,14,16; 777:22;779:20; 782:5;794:8;795:17
T			tomorrow (1) 779:21	type (1) 681:15
table (9) 674:24;729:20; 744:1,5;750:2,3,12, 13;759:17			took (2)	U
tables (4) 729:8;749:19,20, 23				U-35 (2) 675:2;676:25
tag (3) 735:14,14,17				U-36 (2) 677:6;678:23
tagged (5)				U-37 (2) 710:24;712:24
				U-38 (2) 713:17;715:24

U-39 (2) 716:4,19	720:10,19;721:3,8, 13;777:7	689:10;691:4,4,12, 13,21;694:6;697:9, 14,17;699:7;702:24; 703:1,1,7,7,12,25; 704:7,12,13,14; 707:12;709:5,7; 713:25;716:8; 719:18;728:19; 732:8,11,11;733:20; 736:24;737:21,22; 738:25;742:25; 743:12,13,15,19; 744:23,24;745:1; 747:5,7;748:21; 749:11,14,20,23; 754:19,25;755:14,19; 756:6;760:20; 761:12;765:23; 766:24;769:7,17; 770:6;771:6,11,17; 772:20;774:5,6,9,15; 775:13,17;782:2,8, 17;784:4;785:16; 787:14;792:21; 793:22	675:4;794:9,10 virtually (1) 793:14 virtue (4) 791:20;792:2,17; 793:7 visit (6) 679:5;749:14,15; 751:14,15;752:18 visited (2) 745:5;751:4 vital (4) 732:15;738:3; 754:9;755:9 volt (2) 751:17,18 volume (1) 684:6 voting (1) 778:2	714:16;742:5,24; 743:20;772:25; 775:1;778:21;790:1; 796:5;797:1,6 wear (3) 782:11,12;794:2 website (4) 713:15;719:14,18; 793:10 Wednesday (1) 779:19 week (3) 750:21;782:11; 784:23 weight (2) 715:23;716:17 weird (1) 673:7 weren't (1) 750:3 Wesley (1) 705:13 West (49) 668:19;669:7; 677:15,18,24;678:3; 679:5,9,22;680:1; 681:16;682:17; 686:10,19,21;698:22; 703:4;707:7;711:17; 716:9;725:22;727:9, 11;728:7,24;729:2; 732:12;734:17; 735:20,24;737:18,20; 744:24;745:2,3; 747:7;756:12,15; 757:3;760:21; 768:10,12;769:18; 771:7;776:12; 777:14,17;778:1; 782:10
U-40 (2) 717:16;718:8	Unit (73) 684:3;692:18,22; 693:4;718:20; 766:24;768:23; 769:8,10,14,19,25; 770:1,3,13,13,14,14; 771:10,10,11;772:1, 1,2,2,16,21,22;773:4, 15,20,23,24;775:18, 22,23,24,25;776:4,6, 10,13,19,20;777:2,6, 8,11,22,23,24;778:1, 3,5;785:11,12,24; 786:9;787:16,22; 788:22,24;789:11,13; 790:6;797:5,7,9,16, 20,23,24,25	units (34) 684:4,4,5,15; 728:10;770:22,24,25; 771:14,21,21,22,23; 772:4,9,9,10;774:1,2, 7,14,15,16,18; 775:12,16;777:12,22; 778:11;783:4; 787:24;790:8,11; 797:16	wall (4) 750:7,9,10;757:20 wants (2) 768:4;795:14 wasn't (2) 682:13;760:7 watch (2) 741:21,23 water (1) 710:9 way (12) 681:4;683:15; 694:14;715:3; 723:14;761:25; 774:11;779:14; 781:6;786:10;789:1, 8	wear (3) 782:11,12;794:2 website (4) 713:15;719:14,18; 793:10 Wednesday (1) 779:19 week (3) 750:21;782:11; 784:23 weight (2) 715:23;716:17 weird (1) 673:7 weren't (1) 750:3 Wesley (1) 705:13 West (49) 668:19;669:7; 677:15,18,24;678:3; 679:5,9,22;680:1; 681:16;682:17; 686:10,19,21;698:22; 703:4;707:7;711:17; 716:9;725:22;727:9, 11;728:7,24;729:2; 732:12;734:17; 735:20,24;737:18,20; 744:24;745:2,3; 747:7;756:12,15; 757:3;760:21; 768:10,12;769:18; 771:7;776:12; 777:14,17;778:1; 782:10
U-41a (2) 720:10;721:3		use (4) 691:4;729:9;733:5; 758:7 used (2) 682:13;693:2 uses (2) 750:14;784:15 using (2) 739:15;774:11 USO (1) 773:12 usual (1) 788:23 Usually (8) 699:14;704:8; 731:1;732:15,17; 736:7;742:19;756:1	ways (1) 737:8 We'd (2) 719:16;721:4 We'll (9) 683:14;696:19; 716:16;727:9; 767:15;778:15; 781:16;790:23;797:3 We're (28) 661:4,7;668:8; 678:8,8;684:12; 700:2;710:16; 715:18;716:25; 717:22;718:5,24; 725:13,20;726:12; 739:15;762:19; 765:17,23;766:21; 767:6;779:5;781:11; 791:12;792:23; 796:13;798:6 We've (13) 661:12;708:2;	what's (22) 661:13;678:24; 686:4;692:17; 710:17;711:13; 713:19;715:15,16; 731:4,10,12,13,25; 753:2;758:11;762:5; 786:7,7;795:21; 796:15,20 Whereupon (9) 661:18;670:2; 680:5;710:14;719:8; 723:20;746:11; 764:19;798:20 who's (4) 752:7;759:6;762:3; 782:19 whole (5) 685:18,19;729:23; 776:4;795:6 whose (1) 671:18 wide (1)
U-41b (1) 720:19		units (34) 684:4,4,5,15; 728:10;770:22,24,25; 771:14,21,21,22,23; 772:4,9,9,10;774:1,2, 7,14,15,16,18; 775:12,16;777:12,22; 778:11;783:4; 787:24;790:8,11; 797:16	variety (1) 688:8 various (1) 712:17 vascular (1) 692:12 vendor (8) 736:8;748:8,10,12; 750:12;754:9,9,17 vendors (2) 739:15;748:4 venturing (1) 714:13 versus (2) 714:22;735:20 vice (8) 662:19;664:13; 666:5,18;667:21;	
U-42 (2) 721:8,13		unless (1) 745:17 up (20) 666:24;681:5; 683:10;685:19; 694:19;701:22; 704:14;705:1,2; 708:21,22;724:10,13; 731:3;748:2;749:7; 752:5,5;767:25; 785:18	V	
ultimate (1) 779:7		update (1) 679:23 updated (1) 744:17 upgraded (1) 671:4 upon (1) 797:1 urged (1) 783:8 URLs (1) 720:18 Urologic (2) 677:14,16 urological (1) 704:22 Urologist (3) 691:15,16;692:11 Urology (96) 661:9;668:18; 669:9,10,18;675:11, 15,19;676:15;677:19, 22,23;682:7,8;		
ultimately (1) 705:2		update (1) 679:23 updated (1) 744:17 upgraded (1) 671:4 upon (1) 797:1 urged (1) 783:8 URLs (1) 720:18 Urologic (2) 677:14,16 urological (1) 704:22 Urologist (3) 691:15,16;692:11 Urology (96) 661:9;668:18; 669:9,10,18;675:11, 15,19;676:15;677:19, 22,23;682:7,8;		
ultrasound (4) 733:19,22;734:3,4		update (1) 679:23 updated (1) 744:17 upgraded (1) 671:4 upon (1) 797:1 urged (1) 783:8 URLs (1) 720:18 Urologic (2) 677:14,16 urological (1) 704:22 Urologist (3) 691:15,16;692:11 Urology (96) 661:9;668:18; 669:9,10,18;675:11, 15,19;676:15;677:19, 22,23;682:7,8;		
under (26) 664:23;665:22,24; 666:17;675:3,13; 683:1;689:7;712:3; 771:9;772:5;773:24; 775:10,18;776:2,6, 21;777:10;785:1,8; 789:16;791:3,3,8,9; 797:10		update (1) 679:23 updated (1) 744:17 upgraded (1) 671:4 upon (1) 797:1 urged (1) 783:8 URLs (1) 720:18 Urologic (2) 677:14,16 urological (1) 704:22 Urologist (3) 691:15,16;692:11 Urology (96) 661:9;668:18; 669:9,10,18;675:11, 15,19;676:15;677:19, 22,23;682:7,8;		
underlining (1) 719:20		update (1) 679:23 updated (1) 744:17 upgraded (1) 671:4 upon (1) 797:1 urged (1) 783:8 URLs (1) 720:18 Urologic (2) 677:14,16 urological (1) 704:22 Urologist (3) 691:15,16;692:11 Urology (96) 661:9;668:18; 669:9,10,18;675:11, 15,19;676:15;677:19, 22,23;682:7,8;		
understood (1) 774:18		update (1) 679:23 updated (1) 744:17 upgraded (1) 671:4 upon (1) 797:1 urged (1) 783:8 URLs (1) 720:18 Urologic (2) 677:14,16 urological (1) 704:22 Urologist (3) 691:15,16;692:11 Urology (96) 661:9;668:18; 669:9,10,18;675:11, 15,19;676:15;677:19, 22,23;682:7,8;		
UNIDENTIFIED (6) 710:1;721:17,20; 727:6;766:6;789:21		update (1) 679:23 updated (1) 744:17 upgraded (1) 671:4 upon (1) 797:1 urged (1) 783:8 URLs (1) 720:18 Urologic (2) 677:14,16 urological (1) 704:22 Urologist (3) 691:15,16;692:11 Urology (96) 661:9;668:18; 669:9,10,18;675:11, 15,19;676:15;677:19, 22,23;682:7,8;		
uniform (1) 763:25		update (1) 679:23 updated (1) 744:17 upgraded (1) 671:4 upon (1) 797:1 urged (1) 783:8 URLs (1) 720:18 Urologic (2) 677:14,16 urological (1) 704:22 Urologist (3) 691:15,16;692:11 Urology (96) 661:9;668:18; 669:9,10,18;675:11, 15,19;676:15;677:19, 22,23;682:7,8;		
uniforms (2) 782:11,13		update (1) 679:23 updated (1) 744:17 upgraded (1) 671:4 upon (1) 797:1 urged (1) 783:8 URLs (1) 720:18 Urologic (2) 677:14,16 urological (1) 704:22 Urologist (3) 691:15,16;692:11 Urology (96) 661:9;668:18; 669:9,10,18;675:11, 15,19;676:15;677:19, 22,23;682:7,8;		
uninitiated (1) 692:17		update (1) 679:23 updated (1) 744:17 upgraded (1) 671:4 upon (1) 797:1 urged (1) 783:8 URLs (1) 720:18 Urologic (2) 677:14,16 urological (1) 704:22 Urologist (3) 691:15,16;692:11 Urology (96) 661:9;668:18; 669:9,10,18;675:11, 15,19;676:15;677:19, 22,23;682:7,8;		
Union (58) 661:12;674:17,18; 676:20,23;677:2; 678:19;705:21; 706:12;710:16,17,17, 23;712:22;713:13; 715:10,25;717:12,15; 718:21;719:16,25; 721:1,5,11;722:4,11, 25;762:22;768:14; 770:8,11;772:7,11, 14;774:1,2;775:3,7; 776:10,16,25;777:16; 778:7;783:1,8,12; 784:8;785:5,10; 786:16;788:13; 791:1,1,4,9;793:18; 795:14		update (1) 679:23 updated (1) 744:17 upgraded (1) 671:4 upon (1) 797:1 urged (1) 783:8 URLs (1) 720:18 Urologic (2) 677:14,16 urological (1) 704:22 Urologist (3) 691:15,16;692:11 Urology (96) 661:9;668:18; 669:9,10,18;675:11, 15,19;676:15;677:19, 22,23;682:7,8;		
Union's (19) 675:2;676:25; 677:6;678:23; 710:24;712:24; 713:17;715:24; 716:4,19;717:16; 718:8;719:22;		update (1) 679:23 updated (1) 744:17 upgraded (1) 671:4 upon (1) 797:1 urged (1) 783:8 URLs (1) 720:18 Urologic (2) 677:14,16 urological (1) 704:22 Urologist (3) 691:15,16;692:11 Urology (96) 661:9;668:18; 669:9,10,18;675:11, 15,19;676:15;677:19, 22,23;682:7,8;		

688:8 Wilcox (160) 662:4,7,13;663:10; 667:1,3,5,7,19;668:5, 17;669:3,5,20,24; 670:5,7,10,12,14,24; 671:1,3,5,9;672:13, 17;673:9;674:17,19; 675:18,21;676:1,3,5, 7,10,13,14,20;677:2, 3;678:6,8,11,14,17, 19;679:4;680:3,7,15, 19,24;681:3;683:7; 688:13,21;696:10; 701:25;702:1,3,19, 22;703:11,17,19,22, 23;705:8;706:4,9,11, 25;707:2,5;708:7,15, 20;709:1,4,10,18; 710:19;711:1,4,12, 14;713:2,13,20; 714:2,6,11,15,17,23; 715:1,3,13,25;716:7, 11,21;717:2,4,6,12, 22,25;718:2,15,17, 24;719:4,6,10,12,14, 16,22,25;720:3,5,7, 12;721:4,14,19,22; 722:9;723:8;724:14, 15;762:22;763:1; 764:13;765:10,12,14, 16;766:8,11,13,15; 767:18,22;768:6,8, 24;769:2;790:19,21; 795:8,10;796:24; 798:3,5,14,18 withdraw (3) 745:11;775:4; 785:21 Withdrawn (2) 745:13;748:19 within (11) 662:20;664:10,11, 17,17;665:14,18; 669:18;690:3; 753:22;792:25 without (2) 776:4;787:16 WITNESS (192) 661:14,16,20,24; 662:2,5,10;663:8; 667:16,18;668:14,21, 23;669:21;670:17; 673:1,6;675:23,24; 676:2;677:1;680:17; 681:1;683:16;685:6, 7;686:7,11;687:7,9, 13,20;688:24; 693:21;694:1,4,7,11, 23,25;695:2,7,18,20, 24;696:2,14,20,23, 25;697:5,10,12,15, 19,21,23;698:1,3,8,	11,13,15,18,21; 699:2,14,17,19,22, 25;700:4,6,9,13,17, 21,23;701:1,6,11,14, 17,19,24;702:17,21; 703:20;704:24; 705:3,6;706:7;707:3; 708:4,25;709:3; 710:3,5,7,10;715:15; 721:15;723:16,22; 724:2,5,12;725:11; 726:11;727:12; 728:19;729:6,8,25; 730:6,10,13;731:1, 20;732:5,9,16,20; 733:10,13;734:6,8, 18;735:5;736:14; 737:4,24;738:11,23; 739:2,5,20,23; 740:24;741:6,9,11, 16,18,23;742:1,5,9, 14,17,19,23;743:16, 23;745:20;747:2; 749:7,10,12;750:1,4; 753:1,4,6;754:2,5,15; 755:5,13,15,17; 756:1;757:13;758:3, 13,16,18,20,23; 759:13;760:1,4,7,24; 761:13,15,20,22,25; 764:10,14;782:3 witnesses (2) 661:7,8 won't (4) 727:7,25;741:11; 796:6 wondering (1) 766:18 Wood (9) 746:15,17,19,21; 747:6;754:23,24; 756:22;758:21 Wood's (1) 746:25 word (1) 758:6 words (2) 787:16;790:9 work (38) 663:6;664:11,14, 16;703:7,11,12; 714:15,19;724:21; 725:3;729:17,25; 730:11;732:1,3; 747:6;748:20;751:4, 7;752:9,12,14,21; 753:4,5,6;758:1; 760:10;768:9,10; 782:6,8;784:1,2,2,12; 792:25 worked (1) 724:25 working (8)	714:9,20;725:22; 729:12;770:18; 782:9;786:5;792:20 works (2) 761:10;762:12 worst (1) 783:4 wouldn't (3) 681:14;772:1; 789:19 Wound (94) 661:10;664:20; 665:10,15,18,20,24; 669:6,15;675:10; 678:2;682:7,13; 696:12,14,15;697:9, 12,13;698:19,20; 699:7;702:8,8;705:9, 10;707:10;709:5,7; 711:15;713:24; 716:9;717:13;718:7; 719:18;720:1,15,16; 728:24;729:1,19; 730:4,7;733:16,20; 736:22,24;737:22; 738:20,25;743:1,11, 12,15,19;744:1; 745:2,8,15;751:4,7, 15;752:7,11,16; 755:14;756:8; 759:22;760:21; 761:11;765:23; 774:5,15;775:5,14; 776:9,12,17;777:22; 778:1;781:25;782:8, 19;784:5;785:16; 786:2,5,17;787:11; 792:11,14,15,21; 793:22 write (1) 735:15 written (1) 680:8 wrong (5) 720:7;722:25; 731:10,13;774:22 wrote (1) 672:5 X X-ray (3) 766:6,12,14 Y year (12) 666:25;684:7; 710:25;734:23; 744:20;747:10,11,12; 749:6;757:9,17; 777:15 years (7)	666:4,7,7,8,9,10; 725:2 yellow (2) 782:13;793:7 yesterday (4) 670:6,16;726:9; 728:17 York (82) 662:17;663:3,4,13, 22;664:4,17;665:22; 666:2;674:24; 676:15;680:8,11; 683:19,21;684:18; 695:10,23;702:11,19; 703:24;704:2; 705:13,18;710:20,20; 711:25;712:2; 713:14,15;714:19; 715:16;716:1,7; 717:12;719:14,17; 720:16;721:5; 722:15;724:21; 725:1;727:11;740:2, 10;763:25;764:5; 769:12,16,18;770:4; 773:8,13;776:1,11; 781:17;782:3; 783:10,10;784:12; 788:9;791:6,17,17; 792:1;793:2,3,6,8,9, 12,14,25;794:4,8,14, 17,19,21,25;797:2,8 you'd (1) 678:6 you're (28) 662:24;664:13; 670:7;682:10;691:3; 692:13;693:11,13; 695:17;699:4;710:4; 714:5,8;719:2;723:4; 732:4,18;737:11; 739:4;740:19; 741:20;743:13; 750:21;763:18; 764:8;774:12; 788:16;789:4 You've (10) 676:6;699:9; 729:11,12;755:8; 774:18;779:3,6,20; 780:13
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